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JOURNAL

OF THE

HOUSE OF REPRESENTATIVES.

MONDAY, JUNE 4th 1821.

This being the day fixed on by the Proclamation of His Excellency Thomas Bibb, Acting Governor, for convening the General Assembly of the State of Alabama, George W. Owen, the Speaker, and James J. Pleasants, the Clerk, and the following members of the House of Representatives appeared and took their seats, to wit :

From the county of Autauga, Philip Fitzpatrick, James Jackson.

From the county of Blount, Isaac Brown, John Brown, Col. J. Brown

From the county of Bibb, Gabriel Benson.

From the county of Cotaco, M'Kinney Holderness, John T. Rather.

From the county of Clarke, William Murrell, G. W. Creagh.

From the county of Conecuh, Samuel Cook Thomas Armstrong.

From the county of Dallas, Isaac S. M'Means, Horatio G. Perry.

From the county of Franklin, Temple Sargent.

From the county of Limestone, John S. Doxey, William Edmundson,
Quin Morton.

From the county of Lawrence, Matthew Clay, Samuel Bigham.

From the county of Lauderdale, Hugh M'Vay, Jonathan Bailey.

From the county of Madison, Henry Chambers, Samuel Chapman,
David Moore, John Vining, Frederick Weedon.

From the county of Monroe, George W. Owen, (Speaker) James H.
Draughon.

From the county of Marengo, John Coats.

From the county of Montgomery, James Abercrombie, Joseph Fitz-
patrick.

From the county of Marion, James Moore.

From the county of Shelby, Jack Shackelford, Benjamin Davis.

From the county of St. Clair, Philip Coleman.

From the county of Tuskaloosa, Hardin Perkins, Jephtha V. Isbell,
James Hill.

From the county of Washington, James Tagert.

The list of members being called over, the Speaker announced, that a quorum of the House of Representatives was assembled.

The Speaker then stating to the House, that there were doubts on the minds of some of the members, as to the constitutionality of continuing in office the officers of the last session of the General Assembly,

On motion of Mr. Chambers, the following resolution was unanimously adopted, *Resolved by the House of Representatives in General Assembly convened*, That in the opinion of this House, the constitution does not require the House of Representatives to elect the Speaker and other officers oftener than annually.

The Door keeper to the House being absent, on motion of Mr. Chapman, the House proceeded to the election of one to fill the vacancy occasioned thereby; and the election being conducted agreeably to the constitution, Mr. M. D. Thomason was duly elected.

A message from the Senate by Mr. Williams their Secretary.

Mr. Speaker,---I am instructed by the Senate to inform your honorable body, that they are now convened, and are ready to proceed to business, and then he withdrew.

On motion of Mr. Chambers, Ordered, That a committee be appointed to inform the Senate, that a quorum of the House of Representatives is assembled, and that they are ready to proceed to business.

Whereupon Messrs. Chambers and Chapman were appointed said committee.

On motion of Mr. Chambers, the oath of office was administered to Theophilus Skinner, a member elected from the county of Franklin, to fill the vacancy occasioned by the resignation of John Duke.

A message from the Senate by Mr. Williams, their Secretary.

Mr. Speaker,---The Senate have adopted the following resolution: *Resolved*, That a committee of three members be appointed on the part of the Senate to associate with such committee as may be appointed by the Representative House, whose duty it shall be to wait on his Excellency the Acting Governor, to inform him that the General Assembly is now organized and ready to receive his communication.

The House, on motion, concurred in the foregoing resolution of the Senate, and Messrs. Chapman, Cook, and Sargent, were appointed a committee on the part of the House of Representatives, Ordered, That the senate be acquainted therewith.

Mr. Chapman from the joint committee aforesaid, reported, that the committee had waited on his Excellency, the acting Governor, and his Excellency had informed the committee, that he would, at the hour of three o'clock, this day make a communication to the House of Representatives, by Mr. Rogers, the Secretary of State.

And then the House adjourned till three o'clock.

Evening Session.

The House met pursuant to adjournment. Several other members, to wit: From the county of Madison, Samuel Walker, and John M. Leake: From Mobile, Francis W. Armstrong, and Samuel Dale from Monroe, appeared and took their seats.

A communication in writing was received from his Excellency the acting Governor, by Mr. Rogers the Secretary of State, who delivered the same at the Speakers table, and withdrew. The said communication was read, and is as follows:

Gentlemen of the Senate and of the House of Representatives,

The unhappy difference of opinion which existed between your bodies at your last session, in relation to the apportionment of representation for the next General Assembly, and which resulted in your adjournment without passing any law on that subject, involves in its consequences, which in my estimation threaten the very existence of the legislative branch of the government; under the influence of this belief, in addition to other weighty considerations, I have felt myself under the necessity of calling you together at this period: and in avowing this as the principal object of your being assembled, I trust you will not deem it improper, that I should offer for your consideration some of the reasons which have induced this belief.

The security of the rights, interests and liberties of the people, under the administration of the government, is the highest and indeed the sole object for which our constitution exists: and for that purpose in the organization of the legislative department, which comes more immediately from the people, and which should be, emphatically, the representative of their will. Certain principles are laid down, by which those rights, interests and liberties are to be secured, and through which the people are at all times to enjoy an equality in representation.

To carry these principles into effect the ninth and tenth sections of the third article of the Constitution have amply provided. The ninth section declares among other things, "that the General Assembly *shall* at their first meeting and in the years one thousand eight hundred and twenty, one thousand eight hundred and twenty-three, one thousand eight hundred and twenty-six, and every six years thereafter, cause an enumeration to be made of all the inhabitants of the state, and the whole number of the representatives shall at the first session held after making every such enumeration, be fixed by the General Assembly, and apportioned among the several counties, cities or towns, entitled to separate representation according to their respective numbers of white inhabitants; and the said apportionment when made shall not be subject to alteration until after the next census shall be taken." The duty of causing these periodical enumerations to be made is as imperative as the object for which they are to be taken is plain and important: both the letter and spirit of the Constitution point to this conclusion, that the duty is obligatory and not to be dispensed with. No discretion is left to the legislature, except as to the detail, and on the regular and faithful discharge of this duty depends the constitutional existence of the legislative department.

The enumeration "shall be taken" at certain periods, and the apportionment "shall be made" upon the return of the enumeration, when made "shall not be subject to alteration until after the next census shall be taken."

The apportionment follows as a necessary consequence of the taking of the enumeration, and therefore continues only until a new one

is taken. No express provision can be found in the Constitution for continuing one apportionment, until another one shall be made, and to imply a provision of that kind would in effect destroy the very existence of the whole section, and would, if carried to its full extent have the effect of perpetuating the present apportionment; a construction which it is believed cannot for a moment be tolerated consistent with any sound principle of reasoning.

If either of these duties can be dispensed with by any one legislature whose duty it is to perform them, they can be dispensed with altogether, and when once the principle is admitted that the last apportionment remains operative and in force until superceded by another; it admits the existence of a principle in the Constitution inconsistent with itself, and which in fact gives to it a construction by which it is made to sanction its own violation. And could we suppose the freemen of this state would so long permit it to operate, we may ten years hence have the novel spectacle of beholding a legislature purporting to be assembled in conformity with the Constitution and exercise the powers delegated by it, when not a feature in the organization of the body will be in conformity with that Constitution.

This may be supposing an extreme case and one which may never happen, it is nevertheless supposing nothing more than is contained in the principle; the Constitution is violated when the duty is not performed by the legislature whose duty it is to perform it, and the case supposed differs not in the principle but only in the degree. So extremely cautious and explicit is this section, that not only must the enumeration and apportionment be made at certain fixed periods, but it also provides that the apportionment when made "shall not be subject to alteration until after the next census shall be taken."

It will be unnecessary for me to offer you many reasons to show the peculiar propriety and necessity there is for thus circumscribing and limiting the legislature in the exercise of the particular duty of providing for the constitutional existence of its own body. The many inducements to evade the spirit of the provision arising from sectional feelings, which it is to be regretted exists in a greater or less degree in all legislative bodies; the great and important powers necessarily delegated to that body, the exemption from control or responsibility except to the people, and more than all the fact that in these sections are contained the principles to which the freemen of this state look for the perfect exercise of the dearest of their rights, the right of suffrage, shew the importance of the provisions, and induce of themselves the conclusion that the only mode by which the legislative department can be constitutionally perpetuated, is in adhering strictly to the injunctions contained in those sections, and that consequently, should there be a failure at any of the appointed times to comply with the provisions, the failure will be fatal to the existence of the legislative department, and that all acts done by any body constituted or continued in any other manner than in conformity with those provisions will be unconstitutional and void.

That the principles growing out of the ninth section of the third article if correct as understood by me are applicable to the tenth section of the same article and render it equally necessary to apportion the senatorial branch whenever the other branch is apportioned, will not be denied, unless an exception is to be found at this particular period of our government, arising from a provision at the conclusion of the eighth article of the schedule to the Constitution; in the construction of which has arisen the unhappy difference of opinion which occasioned your separation at the last session without acting finally on this subject.

I am peculiarly sensible of the delicacy of, at this time offering you my sentiments on this point; conscious as I am, that it has been once before you in your legislative capacity, but the necessity which I have felt myself under of again calling your attention to it, together with that degree of respect and candour which should always be observed between the co-ordinate branches of the government, induces me now to lay my views before you, which I should not have done at an ordinary session unless compelled by the provisions of a law which would render it indispensable.

The eighth section of the schedule to the Constitution provides "that until the first enumeration shall be made as directed by this Constitution" the several counties shall be entitled to a particular representation therein mentioned, and that "each county shall be entitled to one Senator who shall serve for one term." By the twelfth section of the third article it is declared that "Senators shall be chosen for the term of three years," and to ascertain the period of time which the Senators chosen under the provisions of this section of the schedule is the object of the present enquiry.

That there is much ambiguity arising from, if not direct contradiction between the ninth and tenth sections of the third article, and the eighth section of the schedule, none will deny. But in the construction of the Instrument, we are to take into view all the provisions which relate to the same subject, and whenever ambiguity or contradiction manifests itself, we should give it that construction which shall least conflict with the spirit of the instrument, and which shall tend least to limit, control, or destroy, its most important provisions, with this, as the basis, on which our examination is founded, let us inquire what will be the result.

The object and design of the eighth section of the schedule was to provide for the immediate organization of the Legislative department, it was an act necessary to be done by the convention to give effect to the constitution they were framing; and that necessity existed no longer than was required to enable the Legislature organized by the section to carry the main provisions of the constitution, in relation to that department, into effect. By keeping in view the object and design of the section, together with the necessity which enacted it, we may derive some assistance in giving construction to that part of it which indicates the time which the senators shall serve. It will not, I presume,

be denied, but that when an enumeration should be taken, the necessity for continuing the provision would cease, and that, independent of the provision of the twelfth section of the third article, the time mentioned would not be construed to mean a longer period than the time which would elapse between the election of the Senators and the return of the first census; and that this must be the construction which it bears, I am induced to believe, from the most deliberate examination which I have been able to give the subject.

By defining the term for which a Senator shall serve, as provided in the schedule, to be three years, we necessarily defer for one year, carrying the main principle of the constitution in relation to the organization of the Senate, as provided by the tenth section of the third article, into effect, thereby continuing for one year longer than was necessary, the arbitrary provision of the schedule in relation to the Senate. We are also compelled to defer apportioning the House of Representatives for the same period; or if we do it, we are compelled to violate the rule laid down for the relative proportions of the different branches; or, to avoid that difficulty, we must give to the House of Representatives a greater number than is permitted by the constitution for that body to consist of, when the whole number of white inhabitants is taken into view. The ninth section of the third article, declares, that "the whole number of Representatives shall not exceed sixty, until the number of white inhabitants shall exceed one hundred thousand. And the tenth section of the same article declares that the whole number of Senators shall never be less than one fourth, nor more than one third, of the whole number of Representatives." Our white population it is known does not exceed 100,000, and the present Senate it is known exceeds one third the number of which the Representatives shall be, so that it follows as an inevitable consequence of this construction, that we must abandon the objects contemplated in taking the first enumeration, or violate some important and positive provision in relation to the organization of the two branches.

If we enter into the main provisions of the constitution, it is believed we must do so by virtue of the first enumeration, and in conformity with the principles of the ninth and tenth sections of the third article, and if we do not do so by virtue of that enumeration, and in conformity with those principles. I cannot conceive how a constitutional Legislature can be perpetuated.

By defining the time mentioned in the eighth section of the schedule to be that period of time which shall elapse between their election, and the return of the first enumeration we can avoid all the difficulties which it has been shewn are consequent upon a different construction. We are enabled at once to carry into effect the ninth and tenth sections of the third article without delay, according to their letter and spirit, and we only place a limit upon the length of time which a particular number of individuals shall hold their seats, which is I am induced to believe, a matter of far less importance than to defer entering upon the main provisions of the ninth and tenth sections of the

third article, or the consequences which will follow upon only complying partially with those provisions.

But it is believed, that further arguments are to be found in aid of this construction from the instrument itself. The first clause of the eighth section of the schedule seems to limit the duration of the time to the period of the first enumeration; and it is thought operates to control the whole of the section. The 13th section of the third article is still more in point. That section provides for dividing the senators chosen in 1826, into three classes, and limits the term of the first and second classes, to one and two years. Yet all the Senators chosen in that year, are chosen for the term of three years. Indeed I can give no other construction to the time for which senators are elected than that in no instance can it exceed three years; but that the time may be limited to a shorter period either by express provision or by such provisions as in their effect require a limit in order to carry more important provisions of the constitution into effect.

It may be proper for me here to advert to those provisions of the ninth and tenth sections of the third article which requires the apportionment to be made at the first session held after making every enumeration. In the construction of these provisions, I am governed by the same principles of construction which have governed me in the construction of the other to look at the spirit of the instrument, and with this view I can see no difficulty in your acting at this time, although the time when the act is to be done is directory, yet the power being vested in the body is not divested during the legal existence of the body, and may be exercised at any time previously to its dissolution.

I feel every confidence that you will again enter upon this subject with a view alone to give to the constitution a correct construction; and I confidently trust that with that as your object, together with the advantage of the time and reflection you have had, you will not fail to arrive at a conclusion which will leave nothing for doubt or dissatisfaction.

I cannot close this communication without calling your attention to the manifest imperfections in the existing laws for the collection of the Revenue, which would have been alone sufficient to have induced a called session. That a public credit should at all times be sustained, is of the highest importance to the faithful administration of the Government; but such are the imperfections of the present system, that although the taxes are nominally high, yet the amount of the actual receipts into the Treasury will fall far short of the charges upon it. The defect proceeds principally from the mode of assessment, and I would recommend a total change of the system, and would suggest the propriety of so framing the law as to require the property of each individual to be given into one assessor only, to require the lands to be designated by townships, ranges, quarter sections, &c. and to reinstate the old mode of classification.

THOMAS BIBB.

Cahawba, June 4th, 1821.

On motion of Mr. Chapman, Ordered, That 300 copies of the foregoing message be printed for the use of the members of this House.

On motion of Mr. Chambers, Ordered, that, that part of the Governor's message which relates to the apportionment of Representatives and Senators throughout the different counties of this State, be referred to a select committee: whereupon, Messrs. Chambers, Edmondson, Hill, Jackson, Armstrong of Mobile, Walker and Perry were appointed the said committee.

On motion of Mr. Moore of Madison, that part of the message which relates to the revenue was referred to a select committee, consisting of Messrs. Moore of Madison, Cook, Isaac Brown, Morton, Fitzpatrick of Montgomery, Abercrombie and Clay.

On motion of Mr. M'Vay, Ordered, That there be a select committee appointed to inquire into the expediency of reducing the compensation of the members of the General Assembly; with leave to report by bill or otherwise, and Messrs. M'Vay, Draughon, Weedon, Shackelford, John Brown, Perkins and Chapman were appointed said committee.

And then the House adjourned till to-morrow morning 9 o'clock.

Tuesday June 5th, 1821.

Benjamin S. Smoot a member from the county of Washington appeared and took his seat.

Mr. M'Vay from the committee to enquire into the expediency of reducing the compensation of the members of the General Assembly, reported a bill to be entitled an act to fix and reduce the compensation of the members of the General Assembly, which was read the first time, and ordered for a second reading to morrow.

Mr. M'Vay presented the report of the commissioners appointed to review, and report the situation of a road cut out by John Byler and his associates---which report was read.

Mr. Draughon moved that the same be ordered to lie on the table; which was lost, when on motion of Mr. M'Vay, the said report was referred to a select committee; consisting of Messrs. M'Vay, Perkins and Bigham.

On motion of Mr. Perry leave was granted the Editors of the Cahawba Press, to take a seat within the bar of the House for the purpose of reporting the proceedings of the same.

Mr. Chambers from the select committee reported a bill to be entitled an act to apportion the Representatives among the several counties of this state, and to divide the state into Senatorial districts according to the returns of the late census; which was read the first time, and ordered for a second reading on to-morrow.

Mr. John Brown, presented the petition of James Dodds, clerk of the Circuit Court of Jefferson county, praying additional compensation for making out lists of taxable property, which was received by the House, and referred to a select committee, consisting of Messrs. John Brown, Moore of Madison and Tagert.

Mr. Moore of Madison presented a similar petition from Thomas Brandon, Clerk of the County Court of Madison county; which was received and referred to the preceding committee.

Mr. Morton presented the petition of the Executors of William Simms, deceased, praying the passage of a law to dispose of certain property therein named, belonging to the estate of said decedent; which was received.

Mr. Morton moved that the same be referred to a select committee, which was lost.

Mr. Moore of Madison, moved that said petition lie on the table, which was lost.

Mr. Morton offered for adoption the following resolution, to wit:

Resolved, That this House will not permit the introduction of any further new business unless it may be growing out of, or connected with the Acting Governor's communication.

Mr. Rather moved an amendment by adding to the end of the same these words, "unless by leave of the House," which was lost, when

On motion of Mr. Shackelford, the said resolution was ordered to lie on the table.

Mr. Rather obtained leave to introduce a bill to be entitled an act to repeal the second section of an act passed the 20th December, 1820, to establish certain election precincts therein named, and for other purposes; which was read the first time, and the rule requiring bills and joint resolutions to be read on three different days being suspended, the same was read a second time; and on motion of Mr. Perkins was committed to a select committee, consisting of Messrs. Perkins, Rather and Armstrong of Conecuh.

Mr. Armstrong of Mobile obtained leave to bring in a bill, to be entitled an act to amend an act to establish a Bank in the town of Mobile, passed at St. Stephens, 20th November, 1818, which was read the first time, and the rule being dispensed with, was read a second time, and on motion, *Ordered*, that the said bill be engrossed and made the order of the day for a third reading to-morrow.

Mr. Cook obtained leave to introduce a resolution, authorizing the Comptroller to collect a certain sum of money therein named, which was read the first time, and the rule being dispensed with, was read a second time, on motion *Ordered*, That the said resolution be engrossed for a third reading to-morrow.

And then the House adjourned, till 3 o'clock.

Evening Session.

John M'Kinley a member from the county of Madison, appeared and took his seat.

Mr. Weedon obtained leave to introduce a bill to be entitled an act concerning executions and for other purposes, which was read the first time, and the question being submitted, shall this bill be made the order of the day for a second reading tomorrow? Was decided in the affirmative, yeas 25, nays 16. The yeas and nays being called for: those who voted in the affirmative, are

Mr. Speaker, Bigham, Bailey, John Brown, Chambers, Clay, Cook, Dale, Dorey, Edmondson, Fitzpatrick, of Montgomery, Hill, Holderness, Leake, M'Kinley, Morton, M'Vay, Perkins, Rather, Skinner, Shackelford, Sargent, Vining, Walker, Weedon, 25.

Those who voted in the negative, are

Mr. Abercrombie, Armstrong, of Conecuh, Benson, Isaac Brown, Col. John Brown, Creagh, Coats, Coleman, Draughon, Davis, Fitzpatrick of Autauga, Jackson, Murrel, M'Means, Moore of Marion, Perry, 16.

And so the said bill was ordered for a second reading to-morrow.

Mr. Perkins obtained leave to introduce a bill to be entitled an act to alter the times of holding the Courts in the third circuit of this State, which was read the first time, and, on motion, *Ordered*, for a second reading to-morrow.

Mr. Perry obtained leave to introduce a bill to be entitled an act prescribing the manner of taking depositions; which was read the first time, and, on motion, *Ordered* for a second reading to-morrow.

Col. John Brown obtained leave to introduce a bill, to be entitled an act to alter and amend the militia law of this State, which was read the first time, and, on motion, *Ordered*, that the same be the order of the day for a second reading to-morrow.

Mr. Clay presented the petition of Malcolm Gilchrist, praying leave to erect a mill, and other water works on the Tennessee river, which was received, and, on motion, *Ordered*, That the same be referred to a select committee, whereupon, Messrs. Clay, Holderness and Skinner, were appointed said committee.

Mr. Chapman moved the appointment of a committee on enrolled Bills; which was carried, when, Messrs. Chapman, Morton, Draughon, Clay and Benson were appointed.

And then the House adjourned, till to-morrow 10 o'clock.

Wednesday, June 6,

The House met pursuant to adjournment.

Mr. Perry presented the Petition of the Town Council of Cahawba, praying remuneration for building a bridge over the Cahawba River; which was read, and referred to a select committee, consisting of Messrs. Perry, M'Kinley, and Isbell.

Mr. M'Means presented the Petition of sundry inhabitants of the Town of Cahawba, praying the repeal of certain laws therein named, which was read, and referred to a select committee, consisting of Messrs. M'Means, Chapman and Cook.

Mr. Perkins presented the petition of William M. Marr, praying exemption from the payment of rent on Seminary land, for reasons therein named, which was read and referred to a select committee consisting of Messrs. Perkins, Chambers and Walker.

Mr. Moore, of Madison, presented the Petition of sundry citizens of Hazle Green, in the county of Madison, praying an act to establish a Town at said place, which was read and referred to a select committee, consisting of Messrs. Moore of Madison, Clay and Morton.

Mr. M'Vay presented the petition of sundry inhabitants of St. Clair county, praying that the Legislature may designate the seat of Justice for said county, which was read.

On motion of Mr. Coleman, *Ordered*, that the said Petition lie on the table.

Mr. Moore, of Madison, from the select committee to whom was referred that part of the Governor's message which relates to the Revenue, submitted the following report, to wit:

The committee to whom was referred that part of His Excellency's the acting Governor's communication which relates to the revenue, have had the same under consideration, and as far as practicable have informed themselves of the progress that has been made under the laws that were passed at the last session for raising a revenue for the support of Government.

From the best information they can obtain, assessments have been made in several of the counties and the collectors have made considerable progress in collecting; in some counties there has been only partial assessments made, from the officers appointed to assess, refusing to act, and in two counties, (Lawrence and Jackson) there has been no assessments from the omission of the county in those counties in appointing assessors.

Your committee under all the circumstances connected with this system have no hesitation in saying that in their opinion the mode of giving in land according to its class will be much less inconvenient, and produce a more uniform and equitable tax than any other that can be devised; and were there not insurmountable difficulties in the way; from collections having been partially made in many of the counties, and before a new law could be passed and generally known, collections will be made to some extent in all, they should not hesitate to recommend a repeal of all that has been done under the law that passed at the last session, and recommend a new law upon the principles of classification. Your committee are fully apprised of the difficulty of digesting any plan at this time, that will be free from inconvenience and difficulties, but as far as they can judge, the best alternative that now remains, is to pass a supplement to the existing Laws, which will embrace the property that has not been assessed upon equitable and fair principles; by repealing that part of the first section of an act to raise a revenue for the support of Government for the year 1821, as requires the value of the land, to be ascertained and returned upon the oath or affirmation, as the case may be of the owner or owners.

David Moore, Chairman.

And the said report being read, Mr. Moore of Madison, introduced a bill, to be entitled an act to amend an act entitled an act to provide for raising and collecting of taxes, and for taking the census of this state, passed at the second session of the General Assembly on the 22d day of December, 1820, the said bill being read, on motion of Mr. Armstrong of Mobile, *Ordered*, That 100 copies of the said bill be printed for the use of the members of this House, and the same be the order of the day for a second reading to-morrow.

Mr. Armstrong of Mobile obtained leave to bring in a bill to be entitled an act imposing a tax on resident, and transient persons, importing

goods, wares or merchandize into the city of Mobile and town of Blakeley, which was read a first time, and the rule being dispensed with, it was read a second time, *Ordered*, That the said bill be referred to a committee of the whole House, and made the order of the day for to-morrow.

Mr. Clay from the select committee to whom was referred the Petition of Malcolm Gilchrist, reported the following bill: a bill to be entitled an act to authorise Malcolm Gilchrist to build a mill on the Muscle Shoals, which was read a first time, and the rule being dispensed with, was read a second time, and ordered to be engrossed, and made the order of the day for its third reading to-morrow.

Mr. Perkins from the select committee to whom was referred a bill to be entitled an act to repeal the second section of an act passed the 20th December, 1820, to establish certain election precincts therein named, and for other purposes, reported the same with amendments.

The bill was then read a second time, and the House on motion, concurred in the amendments, *Ordered*, that the said bill be engrossed and made the order of the day for its third reading to-morrow.

Mr. Smoot obtained leave to bring in a bill to be entitled an act to authorize executors, administrators, and guardians to relinquish lands under the act of Congress, passed the 2d day of March, 1821, which was read a first time, and the rule being dispensed with, it was read a second time forthwith, *Ordered*, That the said bill be committed to a committee of the whole House, and made the order of the day for its third reading to-morrow.

Mr. M'Kinley obtained leave to bring in a bill to be entitled an act to repeal in part, and amend an act entitled an act to regulate the proceedings in the courts of Law and Equity in this state, which was read a first time, *Ordered*, that the said bill be read a second time to-morrow.

Mr. Perkins obtained leave to introduce a joint resolution authorizing Gurdon Saltonstall and William L. Adams, to examine Tuskaloosa river, which was read a first time, and ordered for a second reading to-morrow.

A bill to be entitled an act to apportion Representatives among the several counties of this state; and to divide the state into Senatorial districts, according to the returns of the late census, was read a second time.

Mr. Chambers moved to amend the second section by inserting between the words "Marion" and "one" the word "Pickens" which was decided in the affirmative.

Mr. Chambers moved to amend the first section by inserting between the words "Marion" and "one" the words "and that part of Pickens taken from Marion" and by inserting between the words "Tuskaloosa" and "three" the words "and that part of Pickens taken from Tuscaloosa" which was decided in the affirmative. *Ordered*, That the said bill be engrossed, and made the order of the day for its third reading to-morrow.

A bill to be entitled an act to amend an act entitled an act to establish a Bank in the Town of Mobile, passed at St. Stephens 20th November, 1818, was read a third time and passed. *Ordered*, that the words "a bill to be entitled" be stricken out.

A bill to be entitled an act to alter and amend the militia Law of this state, was read a second time. On motion of Mr. Shackelford, *Ordered*, that said bill lie on the table.

A bill to be entitled an act concerning executions and for other purposes was read a second time.

Mr. Weedon moved that the said bill be referred to a select committee, consisting of Messrs. Weedon, Doxey, Perkins, Fitzpatrick of Montgomery and Smoot.

A bill to be entitled an act to alter the times of holding courts in the third circuit of this State was read a second time, and committed to a select committee, consisting of Messrs. Perkins, Perry and M'Kinley.

A bill to be entitled an act prescribing the manner of taking depositions, was read a second time, and ordered to be engrossed for a third reading to-morrow.

A bill to be entitled an act to fix and reduce the compensation of the members of the General Assembly, was read a second time, and ordered to be engrossed and made the order of the day for its third reading to-morrow.

The House then adjourned till three o'clock this afternoon.

Evening Session.

Mr. M'Vay from the committee to whom was referred the report of the commissioners on Bylers Turnpike road, reported the following bill: a bill to be entitled an act to amend an act passed at Huntsville Dec. 16, 1819, entitled an act to establish a public road therein named, which was read a first time, and the rule being dispensed with it was read a second time. On motion of Mr. M'Kinley, ordered that the said bill be committed to a committee of the whole House, and made the order of the day for to-morrow.

Mr. Merton obtained leave to introduce a bill to be entitled an act supplementary to an act entitled an act to prevent obstructing or diverting from the natural channel any water course which would otherwise flow thro' the land of any other person, passed at Cahawba Dec. 18, 1820, which was read a first time, and the rule being suspended, it was read a second time, and ordered to be engrossed for a third reading to-morrow.

Mr. Jno. Brown moved to take up the bill to be entitled an act to alter and amend the militia law of this state, which was carried: and on motion of Mr. John Brown, the whole of the said bill after the enacting clause was stricken out, and on further motion of Mr. J. Brown, the said bill was amended by adding two additional sections to the said bill.

The bill was then ordered to be engrossed for a third reading to-morrow.

The House then adjourned till nine o'clock to-morrow.

Thursday, June 7, 1821.

Mr. Dale presented the petition of John M. Flinn, praying to be allowed offsets to a judgment obtained against him by the State, which was read and referred to a select committee, consisting of Messrs. Dale, M'Kinley, and Fitzpatrick of Autauga.

Mr. Moore of Madison, from the select committee to whom was referred the Petition of sundry inhabitants of Hazle Green, in the county of Madison, reported the following bill: "a bill to be entitled an act to incorporate the town of Hazle Green in the county of Madison, which was read the first time, and made the order for its second reading to-morrow.

Mr. Weedon from the select committee to whom was referred the bill to be entitled an act concerning executions, and for other purposes, reported the same with amendments, on motion, the House concurred in the first and second amendments.

On motion to concur in the third amendment which is a proviso to the 4th section in these words: "Provided, nevertheless, that should the party for whose benefit the trust or mortgage was made, not be a resident of this State, then and in that case he shall indorse that he is willing to take such money as is specified in the 2d section of this act," it was decided in the affirmative: the yeas and nays being called for.

Those who voted in the affirmative, are

Messrs. Bigham, Bailey, John Brown, Chambers, Chapman, Clay, Doxey, Davis, Edmundson, Fitzpatrick of Montgomery, Holderness, Isbell, Leake, Sargent, Walker, M'Kinley, Moore of Madison, Morton, M'Vay, Rather, Skinner, Shackelford, Vining, Weedon, 24.

Those who voted in the negative, are

Messrs. Speaker, Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Benson, Isaac Brown, Col. John Brown, Creagh, Coats, Coleman, Draughon, Dale, Fitzpatrick of Autauga, Hill, Jackson, Murrell, M'Means, Moore of Marion, Perry, Smoot, Tagert, 21

Mr. Perry moved to amend the said bill by adding the following: Sec. 6. Be it enacted that the provisions of the first section of this act, shall not extend to any person or persons who are citizens of this State, and not residing in either of the counties mentioned in the first section of this act." which was decided in the affirmative.

Mr. M'Kinley moved to amend the said bill by adding the following section: "And be it further enacted, That no note or bond shall be assigned for the purpose of evading the provisions of this act; and upon proof of such assignment, any suit brought thereon shall be dismissed with costs," which was decided in the affirmative. Ordered, that the said bill be engrossed, and made the order of the day for its third reading to-morrow.

A message from the Governor, by Mr. Rogers:

Gentlemen of the Senate and of the House of Representatives, I have the honor at this time to lay before you, a memorandum of vacancies which have occurred since your last session in offices, which it will devolve on you to fill during your present session. I beg leave likewise, to recommend to your consideration at this time the propriety

of adjusting and settling the claim of William Terry, Esq. for services rendered in the examination of certain rivers in this State.

THOMAS BIBB.

Mr. Perry from the select committee to whom was referred the petition of the Town Council of Cahawba, reported in part, the following bill, "a bill to be entitled an act concerning the Cahawba Bridge," which was read the first and second time, the rule being suspended, and on motion, *Ordered*, That the same be engrossed, and made the order of the day for to-morrow.

Mr. Perkins, from the select committee to whom was referred the bill to be entitled an act to change the time of holding courts in the third circuit of this State, reported the same with amendments, which said amendments, were concurred in by the House.

Mr. Weedon moved to strike out the fourth section of said bill, which was decided in the negative.

Mr. M'Vay, moved an amendment by adding the following section.

Sec. 6. *And be it further enacted*, That the second and fourth terms of the county Courts in each and every year, shall have jurisdiction in all matters cognizable before that Court, except in those of debt and assumpsit only, which was adopted by the House.

Mr. Weedon moved an amendment to that part of the bill prescribing the time the Circuit Court in Madison county may sit, by adding after the word finished, these words, "provided it shall not exceed three weeks." which was decided in the negative, by yeas and nays.

Those who voted in the affirmative, are Mr. Benson, Col. Jno. Brown, Moore of Madison, Vining, Walker, and Weedon—6.

Those who voted in the negative, are, Mr. Speaker, Messrs. Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Bigham, Bailey, Isaac Brown, John Brown, Chambers, Chapman, Clay, Creagh, Cook, Coats, Coleman, Draughon, Dale, Doxy, Davis, Edmundson, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Hill, Holderness, Isbell, Jackson, Leake, M'Kinley, Morton, Murrell, M'Means, Moore of Marion, M'Vay, Perry, Perkins, Rather, Skinner, Shackelford, Sargent, Smoot, Tagert—41.

So the said amendment was not adopted. *Ordered*, that the said bill be engrossed, and made the order of the day for a third reading to-morrow.

Mr. Perkins from the select committee to whom was referred the petition of William M. Marr, reported the following bill: a bill to be entitled an act for the relief of the occupants of the lands selected for the use of the University within this state, and rented before the approval thereof, which was read a first time, and made the order of the day for its second reading to-morrow.

Mr. Coleman obtained leave to bring in a bill to fix the permanent seat of justice for the county of St. Clair, which was read a first time, and ordered for a second reading to-morrow.

Mr. M'Means, from the select committee to whom was referred the petition of sundry inhabitants of Cahawba, reported the following bill: a bill to be entitled an act to repeal part of an act entitled an act to vest certain lots in the Intendant and Council of the town of Cahawba.

and for other purposes, which was read a first time, and ordered for a second reading to-morrow.

A bill to be entitled an act to apportion the representatives among the several counties of this state, and to divide the same into senatorial districts according to the returns of the late census, was read a third time, and passed. *Ordered*, that the words "a bill to be entitled" be stricken out, and that the same be sent to the senate for their concurrence.

Mr. Morton moved that so much of the governor's message of this day, as relates to the claims of the engineer, be referred to a select committee, consisting of Messrs. Morton, M'Kinley and Sargent.

A bill to be entitled an act to repeal in part and amend an act to regulate the proceedings in the courts of law and equity in this state, was read a second time by its title. On motion of Mr. M'Kinley, the House resolved itself into a committee of the whole on the said bill, and after sometime spent in the consideration thereof, the committee rose, and Mr. Chambers reported it without amendment. *Ordered* that the said bill be referred to a select committee; and Messrs. M'Kinley, Armstrong and Perry, were appointed said committee.

A bill to be entitled an act to alter the militia law of this State, was read a third time.

Mr. Shackelford moved to amend the said bill by adding three additional sections by way of rider, which were read three several times, and passed. The bill was then passed.

Mr. John Brown moved to amend the said bill by striking out the title.

Mr. John Brown moved further to amend said bill by adding the following words as the title of the bill, viz: "An act supplementary to an act entitled an act to organize the militia of this State, passed at Cahawba, December 20, 1820, and for other purposes," carried.

A bill to be entitled an act to authorise Malcom Gilchrist of Lawrence county to build a mill and other water works, on the muscle Shoals, which was read a third time and passed. *Ordered*, that the words, "a bill to be entitled," be stricken out. *Ordered*, that the same be sent to the Senate for their concurrence.

A bill to be entitled an act to reduce and fix the compensation of members of the General Assembly, was read a third time.

Mr. Dale moved to fill the first blank with the word "seven" which was decided in the negative.

The ayes and nays being called for. Those who voted in the affirmative, are

Messrs. Abercrombie, Armstrong of Mobile, Isaac Brown, John Brown, Creagh, Coats, Draughton, Dale, Doxey, Edmundson, Fitzpatrick of Montgomery, Morton, Smoot, Sargent—14

Those who voted in the negative, are

Messrs. Armstrong of Calhoun, Bigham, Benson, Bailey, Leake, M'Kinley, Moore of Madison, Murrell, Col. John Brown, Chambers, Chapman, Clay, Cook, Coleman, Davis, Fitzpatrick of Autauga, Hill, Holderness, Jackson, Moore of Marion, M'Vay, Perry, Perkins, Rather, Shackelford, Sargent, Skinner, Vining Walker, Weedon—30.

Mr. Smoot moved to fill the blank, with the word "six" which was decided in the affirmative: the yeas and nays being called for.

Those who voted in the affirmative, are

Messrs. Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Benson, Isaac Brown, John Brown, Chambers, Creagh, Coats, Draughon, Dale, Doxey, Edmundson, Fitzpatrick of Montgomery, Hill, M'Kinley, Morton, M'Means, Perry, Perkins, Rather, Smoot, Tagert, Vining, Weedon—25.

Those who voted in the negative, are

Messrs. Bigham, Bailey, Col. John Brown, Chapman, Clay, Cook, Coleman, Davis, Fitzpatrick of Autauga, Holderness, Jackson, Leake, Moore of Madison, Murrell, Moore of Marion, M'Vay, Skinner, Shackelford, Sargent, Walker—20.

Mr. Draughon moved that the following section be adopted by way of rider: *And be it further enacted*, That the operation of this act shall extend to the present General Assembly only, which was decided in the negative. The yeas and nays being called for.

Those who voted in the affirmative, are

Mr. Speaker, Abercrombie, Armstrong of Mobile, Bailey, Isaac Brown, John Brown, Col. J. Brown, Draughon, Dale, Doxey, Davis, Edmundson, Fitzpatrick, of Montgomery, Fitzpatrick of Autauga, Morton, Murrell, Perkins, Smoot, Weedon. 19.

Those who voted in the negative, are

Messrs. Armstrong of Conecuh, Bigham, Benson, Chambers, Chapman, Clay, Creagh, Cook, Coats, Coleman, Hill, Holderness, Jackson, Leake, M'Kinley, Moore of Madison, M'Means, Moore of Marion, M'Vay, Perry, Rather, Shackelford, Sargent, Tagert, Vining, Walker—26.

Mr. Smoot moved to fill the 2d blank with the word "five" which was decided in the negative. The yeas and nays being called for.

Those who voted in the affirmative, are

Messrs. Abercrombie, Armstrong of Mobile, Isaac Brown, John Brown, Draughon, Dale, Doxey, Edmundson, Smoot—9.

Those who voted in the negative, are

Mr. Speaker, Armstrong of Conecuh, Bigham, Benson, Bailey, Col. John Brown, Chambers, Chapman, Clay, Creagh, Cook, Coats, Coleman, Davis, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Hill, Holderness, Jackson, Leake, M'Kinley, Moore of Madison, Morton, Murrell, M'Means, Moore of Marion, M'Vay, Perry, Perkins, Rather, Skinner, Shackelford, Sargent, Tagert, Vining, Walker, Weedon—37.

Mr. Coats moved to fill the said blank with the word "four" which was decided in the affirmative. The yeas and nays being called for.

Those who voted in the affirmative, are

Messrs. Armstrong of Mobile, Armstrong of Conecuh, Bigham, Isaac Brown, John Brown, Col. John Brown, Chambers, Creagh, Cook, Coats, Draughon, Dale, Doxey, Davis, Edmundson, Hill, Jackson, Murrell, Moore of Marion, Perkins, Rather, Skinner, Shackelford, Sargent, Smoot, Tagert, Vining, Weedon—28.

Those who voted in the negative, are

Mr. Speaker, Abercrombie, Benson, Bailey, Chapman, Clay, Coleman, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Holderness, Leake, M'Kinley, Moore of Madison, Morton, M'Means, M'Vay, Perry, Walker—18.

Mr. Dale moved to fill the 3d blank with the word "four" which was decided in the affirmative.

And the blanks being thus filled, the bill was then passed. *Ordered*, That the words "a bill to be entitled," be stricken out. *Ordered*, That the same be sent to the Senate for their concurrence.

A bill to be entitled an act to prescribe the manner of taking depositions in certain cases, was read a third time and passed. *Ordered* that the words "a bill to be entitled" be stricken out. *Ordered*, that the same be sent to the senate for their concurrence.

The House adjourned till 3 o'clock this evening.

Evening Session.

House met pursuant to adjournment.

A bill to be entitled an act to repeal the second section of an act passed 20th December 1820, to establish certain election precincts therein named and for other purposes, was read the third time. Mr. Moore of Marion moved to amend said bill by way of rider, by adding thereto two additional sections, which was carried, and the same being read three times, the bill was then passed. *Ordered* that the words "a bill to be entitled" be stricken out, and that the same be sent to the senate.

The bill to be entitled an act to amend an act, entitled an act to provide for assessing and collecting the taxes, and for taking the census of this state, passed at the second session of the General Assembly on the 22d day of December, 1820, was read a second time, and on motion of Mr. Walker, the House resolved itself into a committee of the whole on the said bill, and after having spent sometime therein, Mr. Speaker resumed the chair, and Mr. Walker, reported that the committee of the whole House had, according to order, had said bill under consideration, and had made progress, and instructed him to ask leave to sit again on to-morrow, which was granted.

A message from the senate by Mr. Williams, their secretary.

Mr. Speaker---I am instructed by the senate to inform your honorable body that they have passed a bill entitled an act to apportion the representatives among the several counties of this state, according to the returns of the late census, to which they desire your concurrence, and then he withdrew.

And then the House adjourned till to-morrow 9 o'clock.

FRIDAY, June 8, 1821.

Mr. M'Kinley from the select committee to whom was referred the bill to be entitled an act to repeal in part and amend an act entitled an act to regulate the proceedings in courts of law and equity in this state, reported the same with amendments in which the House concurred. *Ordered* that the said bill be engrossed and made the order of the day for its third reading to-morrow.

Message from the senate by Mr. Williams their secretary: Mr. Speaker, The senate have read the third times and passed the following bills, to wit: an act for the relief of master builders and mechanics of the city of Mobile, in the state of Alabama. An act amendatory of certain acts and to establish certain election precincts therein mentioned. In which they desire the concurrence of your honorable body. They have also read the third time and passed an act entitled an act to establish a bank in the town of Mobile, passed at St. Stephens the 20th Novr 1818, and the joint resolution authorizing the Comptroller to collect a sum of money therein named; both of which originated in your honorable body. I have further to inform you that the bill originating in your honorable body, entitled an act to apportion the representatives among the several counties of this state, and to divide

the state into senatorial districts according to the returns of the late census, is indefinitely postponed.

Mr. Perkins obtained leave to introduce the following bill: a bill to be entitled an act to authorize Leonard Peck and others to erect a toll bridge across the Black Warrior near the town of Tuskaloosa, which was read the first time, and the rule being suspended, it was read a second time, and amended. *Ordered* that the said bill be engrossed and made the order of the day for its third reading to-morrow.

Mr. Abercrombie obtained leave to bring in a bill to be entitled "an act establishing the county of _____", which was read a first time. Mr. Fitzpatrick of Montgomery moved to postpone the further consideration of the said bill till the fourth Monday in October next, which was lost. *Ordered* that said bill be read a second time to-morrow.

A bill from the senate entitled an act to apportion representatives among the several counties of this state, according to the returns of the late census, was read a first time. On motion of Mr. M'Kinley, ordered that the said bill lie on the table.

A bill from the senate, entitled an act amendatory of the laws now in force for the relief of insolvent debtors, was read a first time. On motion, ordered, that the said bill be read a second time to-morrow.

A bill from the senate, amendatory of certain acts and to establish certain election precincts therein mentioned, was read the first time, and the rule being dispensed with, it was read a second time and amended. *Ordered* that the said bill be read a third time to-morrow.

A bill from the Senate, entitled an act for the relief of the master builders and mechanics of the city of Mobile in the State of Alabama, was read the first time, and referred to a select committee consisting of Messrs. Weedon, Murphy, and Armstrong of Mobile.

On motion of Mr. Perkins the following resolution was adopted:

Resolved, that a committee of seven be appointed to enquire whether any, and if any, what are the best measures to be adopted to perpetuate the legislative department of our state Government, with leave to sit during the session of this House.

And Messrs. Perkins, M'Kinley, Murphy, Jackson, Armstrong of Mobile, Cook, and Sargent were appointed said committee.

Mr. Perry obtained leave to introduce a bill to be entitled an act to provide a fund to defray the expenses of the Cahawba Bridge, which was read a first time, and ordered for a second reading on to-morrow.

Mr. Murphy presented the petition of H. H. B. Hays, administrator of Lawrence Wood, deceased, praying that a law may be passed authorizing him to transfer the certificate of a certain piece of land belonging to the said intestate, which was read, and referred to a select committee, consisting of Messrs. Murphy, Dale and Perry.

A bill to be entitled an act to alter and enlarge the terms of certain circuit and county courts, was on its third reading.

On motion of Mr. Perkins the House resolved itself into a committee of the whole on the said bill and after sometime spent in the consid-

eration, the committee rose, and Mr. Perkins reported the said bill with amendments; in which amendments the House concurred.

In the question on concurring in the second amendment which struck out the provisions in the bill that provided for alternation of the Judges.

The yeas and nays being called for, those who voted in the affirmative, are,

Messrs. Speaker, Abecrombie, Bigham, Benson, Bailey, Isaac Brown, John Brown, Col. John Brown, Creagh, Coats, Coleman, Draughon, Doxey, Davis, Hill, Holderness, Isbell, Moore of Madison, Murphy, Murrell, M'Means, M'Vay, Skinner, Sargent, Walker and Weedon—26.

Those who voted in the negative, are,

Messrs. Armstrong of Mobile, Armstrong of Conecuh, Chapman, Clay, Cook, Dale, Leake, M'Kinley, Moore of Marion, Perry, Perkins, Rather, Shackelford, Smoot, Vining—15.

A message from the Senate by Mr. Williams their Secretary,

Mr. Speaker, the Senate have read the third time and passed, the bill entitled an act to authorize Malcolm Gilchrist to build a mill on the muscle shoals, which originated in your honorable body.

The House then adjourned till 3 o'clock this evening.

Evening Session.

Larkin Cleveland a member from the county of Montgomery appeared and took his seat.

The bill to be entitled an act to alter and enlarge the term of certain circuit and county courts, was read the third time.

Mr. Moore of Madison moved to amend said bill by adding the following section,

An be it further enacted, That the said terms to be holden in the county of Madison shall not exceed ----- weeks, one week of which shall be devoted to the trial of chancery causes, which was decided in the negative.

The question was then stated, shall said bill pass? and decided by ayes, and nays.

Those who voted in the affirmative, are,

Mr. Speaker, Abecrombie, Armstrong of Mobile, Armstrong of Conecuh, Bigham, Benson, Bailey, Isaac Brown, John Brown, Chapman, Clay, Creagh, Cook, Coleman, Dale, Doxey, Davis, Edmondson, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Hill, Holderness, M'Kinley, M'Means, M'Vay, Perry, Perkins, Skinner, Shackelford, Sargent, Smoot, Tagert,—32.

Those who voted in the negative, are,

Col. John Brown, Coats, Leake, Moore of Madison, Moore of Marion, Morton, Vining Walker and Weedon—9.

So the said bill was passed.

Ordered, that the words, "a bill to be entitled" be stricken out and that the same be sent to the Senate.

The House again resolved itself into a committee of the whole, on the bill to be entitled an act to amend an act entitled an act to provide for assessing and collecting the taxes, and for taking the census, passed at the 2d session of the General Assembly on the 22d day of December, 1820, and having spent some time therein, Mr. Speaker resumed the chair, and Mr. Walker, reported the same with amendments; several of said amendments were concurred in by the House.

Mr. Perkins moved that the House, do not concur in that part of the report of the committee of the whole which reads in these words, "And be it further enacted, That no double tax shall be demanded on any property not heretofore given in under the provisions of the act to which this is an amendment, which was decided by yeas and nays.

Those who voted in the affirmative, are,

Mr. Speaker, Abercrombie, Bailey, Isaac Brown, Col. John Brown, Chapman, Cleveland, Clay, Cook, Coats, Coleman, Draughon, Dale, Doxey, Edmundson, Fitzpatrick of Autauga, Holderness, Jackson, Leake, M'Kinley, Moore of Madison, Murphy, Morton, Murrell, M'Vay, Perry, Rather, Skinner, Tagert, Vining, Walker, Weedon—32.

Those who voted in the negative, are

Messrs. Armstrong of Mobile, Armstrong of Conecuh, Bigham, Benson, John Brown, Creagh, Davis, Fitzpatrick of Montgomery, Hill, Isbell, Moore of Marion, Perkins, Shackelford, Sargent—14.

So the House concurred in the said amendment.

Mr. Weedon moved an amendment to said bill, in these words, "That all the lands in this State, subject to taxation shall be divided into four classes, the first class shall be valued at the rate of dollars per acre, the 2d class at the rate of dollars per acre, the third class at the rate of dollars per acre, and the fourth class at the rate of dollars per acre; and the sum of cents shall be paid on every hundred dollars worth in proportion to the number of instalments paid on each and every tract of land liable to taxation as aforesaid.

And be it further enacted, That all lands heretofore assessed pursuant to the provisions of an act passed at Cahawba, the 20th, December, 1820, at any sum over dollars per acre shall be taxed as land of the first class, and all lands over the sum of dollars per acre, shall be of the 2d class, and all lands over the sum of dollars shall be of the 3d class; and all lands over, shall be of the 4th class; and such sums paid thereon as are required by the provisions of the foregoing section.

And be it further enacted, That all persons who have given in their lands at higher rates, than is specified in the foregoing sections, and have paid the tax accruing thereon, should such taxes amount to a larger sum than would now be due, it shall be the duty of the tax collector to pay over to such persons the amount thus received over and above the amount now required; and in all cases where the lands have been returned at a lower rate than the 4th class, and the amount received by the tax collector, is not equal to the amount now due, every person holding such lands shall pay an additional sum to the Tax Collector agreeable to the amount now due, by the 4th class, and the Tax Collector, is hereby authorised and required to collect the same.

The question being stated on the adoption of the said amendment, was decided in the negative by yeas and nays, yeas 22—nays 23.

Those who voted in the affirmative, are

Mr. Speaker, Abercrombie, Armstrong of Conecuh, Bigham, Bailey, Col. John Brown, Chapman, Cleveland, Cook, Coleman, Dale, Davis, Fitzpatrick of Autauga, Holderness, Jackson, Leake, Moore of Madison, M'Vay, Rather, Vining, Walker, Weedon—22.

Those who voted in the negative, are

Mr. Armstrong of Mobile, Benson, Isaac Brown, John Brown, Clay, Creagh, Coats, Draughon, Doxey, Edmondson, Fitzpatrick of Montgomery, Hill, Isbell, M'Kinley, Murphy, Morton, Murrel, Perry, Perkins, Skinner, Shackelford, Sargent, Tagert--23.

So the said amendment was not adopted.

Mr. M'Vay offered an amendment, reducing the poll tax to fifty cents, and compelling tax collectors to refund in cases where the present poll tax of one dollar, has been paid, which was decided in the negative.

A message from the senate by Mr. Williams, their secretary.

The senate have adopted the following resolution :

Resolved by the Senate, That with the concurrence of the House of Representatives, both houses will proceed on Saturday next at 12 o'clock A. M. to fill such vacancies in offices as may have occurred since the last session of the General Assembly of the state of Alabama.

The said resolution being read;

Ordered, that the same lie on the table.

Another message from the Senate by Mr. Dick.

Mr. Speaker, the senate have instructed me to inform you, that they have passed the following bills, to wit :

An act to change the name of the town of Ococoposo and for other purposes, and

An act authorizing licensed ministers of the gospel to solemnize the rites of matrimony, in which they ask the concurrence of your honorable body. And then he withdrew.

The bill last mentioned, from the Senate was read a first time, and On motion, ordered for a second reading to morrow.

The House then resumed the order of the day ; and

On motion of Mr. Armstrong of Mobile, the house resolved itself into a committee of the whole, on the bill to be entitled an act imposing a tax on non resident and transient persons importing goods, wares, or merchandize into the city of Mobile, and town of Blakeley, and after some time spent therein Mr. Speaker resumed the chair, and Mr. Weedon reported the same with amendments, in which the House concurred. And

On motion, ordered that said bill be engrossed and made the order of the day to morrow.

And then the House adjourned till to morrow 9 o'clock.

SATURDAY, June, 9, 1821.

A message from the Senate by Mr. Ringgold.

Mr. Speaker, the Senate read the third time and passed, a Bill entitled, an act to reduce the expenses of the General Assembly, and for other purposes, in which they desire the concurrence of your honorable body. And then he withdrew.

Mr. Morton, presented the petition of sundry inhabitants of the county of Limestone praying the repeal of a law of the last session, establishing a road on the dividing line of said county and Madison, which was received, and referred to a select committee, consisting of Messrs. Morton, Leake, and Hill.

Mr. M'Kinley, presented the petition of the President and Directors of the Indian Creek navigation company, praying the passage of a law allowing them to exact toll on boats, passing said creek, in proportion to the distance they may improve the same, which was received and referred to a select committee, consisting of Messrs. M'Kinley, Walker and Isbell.

Ordered, That Messrs. M'Kinley and Sargent be discharged from the committee on the accounts of the public engineer.

Mr. Skinner presented the petition of sundry inhabitants of the county of Franklin, praying the opening a road therein mentioned, which was received, and referred to a select committee, consisting of Messrs. Skinner, Bigham, and Moore of Marion.

Ordered, that Mr. Leake, Benson, and Moore of Madison, be added to the committee on the settlement of the accounts of the public engineer.

Mr. Moore of Madison, obtained leave to bring in a bill to be entitled an act, to amend an act entitled, an act to reduce into one the several acts concerning strays, which was read a second time, and the rule being suspended was read a second time forthwith.

Ordered, the same be referred to a select committee.

Whereupon Messrs. Moore of Madison, Shackelford, and Edmundson were appointed the said committee.

Mr. Dale from the committee to whom was referred the petition of John M. Flinn, reported a bill to be entitled an act for the relief of J. M. Flinn, which was read the first time, and ordered for a second reading on Monday next.

Mr. Weedon from the select committee, to whom was referred the bill from the senate entitled an act for the relief of the master builders and mechanics of the city of Mobile, in the state of Alabama, reported the same with amendments, in which the House concurred. On motion, *Ordered*, That the said bill be made the order of the day for a third reading on Monday next.

The House resolved itself into a committee of the whole on the bill to be entitled an act authorizing executions, administrators, and guardians to relinquish lands under the act of Congress of the 2d March, 1821, and after some time spent therein, Mr. Speaker resumed the chair, and Mr. M'Vay reported the same with amendments, in which the House concurred. *Ordered*, That the said bill be engrossed and made the order of the day for a third reading on Monday.

The House resolved itself into a committee of the whole House on the bill to be entitled an act to amend an act passed at Huntsville, December 16, 1819, entitled an act to establish a road therein named, and after sometime spent in the consideration thereof, Mr. Speaker resumed the chair, and Mr. Moore of Madison, reported the same to the House, with amendments in which the House concurred. *Ordered*, That the said bill be engrossed and made the order of the day for a third reading on Monday.

Resolution authorizing persons to examine Tuskaloosa river, was read the second time, and ordered to be engrossed for a third reading on Monday.

A bill to be entitled an act to fix the permanent seat of Justice for the county of St. Clair, was read a second time. On motion, *Ordered*, That the said bill with the accompanying documents be committed to a select committee: Whereupon, Messrs. Walker, Coleman and M'Vay, were appointed said committee.

A bill to be entitled an act to incorporate the town of Hazle Green, in the county of Madison, was read a second time, and ordered to be engrossed for a third reading on Monday.

A bill to be entitled an act to repeal part of an act entitled an act to vest certain lots in the Intendant and Council of the Town of Cahawba, and for other purposes, was read a second time.

Mr. M'Means moved an amendment to said bill in these words:
Sec. 2. And be it further enacted, That the acting Governor be authorized, and he is hereby required on or before the first day of November next, to carry into effect the provisions of an act passed at the town of Cahawba on the 20th day of December, 1820, entitled an act to authorize the Governor to sell lots on the public lands east of the Alabama river, and opposite the town of Cahawba, so that lots sold according to provisions of the above recited act, shall not be less than ten.

And the question being stated on the adoption of the said amendment, was decided in the negative---yeas 19, nays 25.

The yeas and nays being called for,

Those who voted in the affirmative, are

Messrs. Bigham, Bailey, Col. John Brown, Chapman, Clay, Coats, Doxey, Edmundson, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Holderness, M'Means, Moore of Marion, M'Vay, Rather, Skinner, Shackelford, Sargent and Weedon. 19.

Those who voted in the negative, are,

Messrs. Speaker. Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Benson, Isaac Brown, John Brown, Chambers, Cleaveland, Creagh, Cook, Coleman, Draughon, Dale, Davis, Hill, Jackson, Leake, M'Kinley, Moore of Madison, Murphy, Murrell, Perry, Perkins, Walker, 25.

So the said amendment was not adopted.

On motion of Mr. M'Kinley, the House took up the bill, to be entitled an act to repeal in part and amend an act entitled an act to regulate the proceedings in the courts of law and equity in this state, which was read the third time, and the blanks being filled, the House adjourned to three o'clock this evening.

Evening Session.

On motion of Mr. Perkins, the House took into consideration the bill to authorize Leonard Peck and others to build a bridge across the Black Warrior river, which was read a third time and the blanks being filled, the bill passed.

Ordered that the words, a bill to be entitled, be stricken out, and that the same be sent to the Senate for their concurrence.

A message from the senate by Mr. Chambers.

Mr. Speaker, the senate have passed a resolution fixing the time of adjourning the present General Assembly, in which they ask the concurrence of your honorable body. And then he withdrew.

The question was taken on the passage of the bill to be entitled an act to repeal in part and amend an act entitled an act to regulate the proceedings in the courts of law and equity in this state, and passed in the affirmative. Ayes 29, nays, 20.

Those who voted in the affirmative, are

Mr. Speaker, Messrs. Abecrombie, Armstrong of Mobile, Bigham, Benson, Bailey, Isaac Brown, John Brown, Chambers, Chapman, Clay, Coleman, Draughon, Dale, Doxey, Davis, Fitzpatrick of Autauga, Hill, Holderness, Isbell, Jackson, M'Kinley, Murphy, Morton, Perry, Perkins, Rather, Shackelford, Smoot, 29.

Those who voted in the negative, are

Messrs. Armstrong of Conecuh, Col. John Brown, Cleveland, Creagh, Cook, Coats, Edmondson, Fitzpatrick of Montgomery, Leake, Moore of Marion, Murrell, M'Means, Moore of Madison, M'Vay, Skinner, Sargent, Tagert, Vining, Walker, Weedon—20

So the bill was passed.

Ordered, that the same be sent to the senate for their concurrence.

Ordered, that Mr. Doxey and Murphy be added to the committee on the settlement of the accounts of the public engineer.

Mr. M'Vay presented the account of Chesley Roundtree, sheriff of Lauderdale county, which was received, and referred to the committee on the settlement of the accounts of the public engineer.

The bill to be entitled an act concerning executions and for other purposes, was read a third time, and the blanks being filled, it was passed. *Ordered* that the title be as aforesaid, and that the same be sent to the senate for their concurrence.

The bill to be entitled an act for the relief of the occupants of the lands, selected for the use of the University in this state, was read a second time. *Ordered*, That the same be engrossed and made the order of the day for its third reading on Monday.

Mr. Chapman from the committee on enrolled bills reported, that they had examined an enrolled bill and resolution of the following title to wit:

An act to amend an act entitled an act to establish a bank in the town of Mobile, passed at St. Stephens, the 20th November 1818, and a resolution authorizing the comptroller to collect a certain sum of money therein named, which the committee find correctly enrolled.

The bill entitled an act concerning the Cahawba Bridge, was read the third time and passed. *Ordered*, that the title be as aforesaid, and that the same be sent to the senate for their concurrence.

Mr. M'Means moved that the House adjourn till Monday 9 o'clock, which was decided in the negative. Ayes 9, nays 24.

Those who voted in the negative, are

Messrs. Bailey, Creagh, Fitzpatrick of Autauga, Fitzpatrick of Montgomery, Hill, M'Means, M'Vay, Perkins, Shackelford—9.

Those who voted in the affirmative, are

Mr. Speaker, Abecrombie, Armstrong of Mobile, Armstrong of Conecuh, Benson, Isaac Brown, John Brown, Col. John Brown, Chambers, Cleveland, Cook, Coats, Coleman, Doxey, Davis, Edmondson, Leake, Moore of Madison, Murrell, Perry, Rather, Vining, Walker, Weedon—24.

The bill to be entitled an act supplementary to an act entitled an act to prevent obstructing or diverting from the natural channel any water course which would flow through the land of any other person, passed at Cahawba, Dec. 18, 1820, was, on motion, Ordered to lie on the table.

A bill to be entitled an act authorizing licensed ministers of the Gospel to solemnize the rites of matrimony, was read a 2d time; and the rule being dispensed with, was read a third time forthwith and passed. *Ordered*, That the senate be acquainted therewith.

A bill from the senate entitled an act amendatory of certain acts, and establish certain election precincts therein mentioned, was read a third time, and passed, as amended, Ordered that the Senate be acquainted therewith.

On motion of Mr. Morton, *Ordered*, that the resolution from the senate fixing the time of adjourning the present General Assembly, lie on the table.

The bill to be entitled an act establishing the county of _____ was read the second time. Mr. Fitzpatrick of Mont. moved, that said bill lie on the table, which was decided in the negative, ayes 19, nays 19.

The yeas and nays being called for; those who voted in the affirmative, are, Messrs. Benson, Isaac Brown, John Brown, Col. John Brown, Chapman, Creagh, Coats, Coleman, Dale, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Jackson, Moore of Madison, Murrell, M'Vay, Skinner, Tagert, Vining, Walker—19

Those who voted in the negative, are Messrs. Speaker, Abercrombie, Armstrong of Conecuh, Armstrong of Mobile, Bigham, Bailey, Chambers, Cleveland, Cook, Draughton, Doxy, Davis, Edmondson, Leake, M'Kinley, Murphy, Morton, Perry, Weedon—19.

Ordered, that the said bill be committed to a committee of the whole house, and made the order of the day on Monday next.

The House adjourned 'till Monday morning.

MONDAY, June 11, 1821.

Mr. Perkins, from the select committee to whom was referred the consideration of what measures are necessary to perpetuate the Legislative department of the government, reported, That in the opinion of the committee, it is unnecessary at this time to take any measures out of the usual course of Legislation, to effect that object, which report was, on motion, ordered to lie on the table.

On motion of Mr. Chambers, the House took up the bill from the senate, entitled an act to apportion the representatives among the several counties of this state, according to the returns of the late census; which was read the second time. —Mr. Weedon moved the following amendment; *And be it further enacted*, that the counties of Baldwin, Washington and Mobile, shall form one district; Conecuh, Henry and Butler, one; Monroe and Wilcox, one; Clarke and Marengo, one; Dallas and Perry, one; Autauga and Montgomery, one; Greene, Pickens and Tuskaloosa, one; Bibb and Shelby, one; Jefferson and Marion, one; Blount and St. Clair, one; Catoosa, one; Lawrence, one; Franklin and Lauderdale one; Limestone, one; Madison, one; and Jackson one;—and each district shall be entitled to one senator.

Sec. 3. *And be it further enacted*, That the sheriff of the counties of

Washington, Clarke, Monroe, Conecuh, Dallas, Montgomery, Tuska-loosa, Bibb, Jefferson, St. Clair, and Lauderdale, shall be the returning officers for their respective districts; and the sheriffs of the other counties of the district shall make return to the returning officers within ten days after the senatorial election. The House having spent sometime in the consideration of the said amendment, on motion adjourned till three o'clock.

Evening Session.

The House resumed the consideration of the amendment, offered by Mr. Weedon, to the bill from the senate, entitled an act to apportion the Representatives among the several counties of this state, and the question being stated, will the House adopt said amendment, it was decided in the affirmative. Yeas 34, Nays 14.

The yeas and nays being called for, those who voted in the affirmative, are,

Mr. Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Bigham, Bailey Isaac Brown, Col. John Brown, Chambers, Chapman, Clay, Coats, Doxey, Davis, Edmondson, Fitzpatrick of Montgomery, Hill, Leake, M'Kinley, Moore of Madison, Morton, M'Means, Moore of Marion, M'Vay, Perkins, Rather, Skinner, Shackelford, Sargent, Vining, Walker, Weedon—34—

Those who voted in the negative, are

Mr. Speaker, Benson, John Brown, Creagh, Cook, Coleman, Draughon, Dale, Fitzpatrick of Autauga, Jackson, Murphy, Murrell, Perry, Tagert—14.

So the said amendment was adopted, by the House.

The said bill was then, amended on the several motions, of Messrs. Perkins, Murphy, Perry and Cook, and on motion, ordered, that the same be made the order of the day for a third reading on to morrow.

Message from the senate by Mr. Farmer:

Mr. Speaker, the senate concur in the amendments made by your honorable body, to the bill, entitled an act amendatory of certain acts and to establish certain election precincts therein mentioned. And they have passed the bill originating in your honorable body, entitled an act supplementary to an act entitled an act to organize the militia of this state, passed at Cahawba, Dec. 20, 1820, and for other purposes, with amendments, in which they respectfully desire concurrence, and then he withdrew.

Another message from the Senate by Mr. Farmer:

Mr. Speaker, the Senate have passed the bill originating in your honorable body, entitled an act concerning executions, and for other purposes, which they have amended by extending the provisions of the said act, to the county of Blount; to which amendments, the Senate respectfully desire the concurrence of the House, and then he withdrew.

Mr. Morton from the committee to whom was referred that part of the Governor's message, of the 7th inst. relative to the adjustment of the accounts of William Terry, engineer, submitted a report, accompanied with a resolution to extend relief to William Terry for certain services rendered to the state of Alabama, as engineer, which was read the first time, and ordered for a second reading on to morrow.

Mr. Walker from the committee to whom was referred the bill fixing the seat of justice for St. Clair, county, reported the same with amendments, in which the house concurred.

Mr. Draughon, moved an amendment to said bill appointing two additional commissioners to fix the seat of justice in the county of Wilcox, which was carried.

Ordered That the said bill be engrossed and made the order of the day, for to morrow.

And the House adjourned till 9 o'clock to morrow.

TUESDAY, June 12, 1821.

On motion of Mr. Armstrong of Mobile, ordered, that a committee be appointed on the part of this House, to act with such committee as may be appointed on the part of the senate, to draft a memorial, praying Congress to change the manner of holding the district courts of the United States, in this state, so as to place citizens on an equal footing with the citizens of other states in the operations of said Courts: And that the said committee also take into consideration the propriety of memorializing Congress on the necessity of continuing the erection of fortifications on Dauphin Island. And Messrs. Armstrong of Mobile, Murphy, and Chambers were appointed said committee.

Mr. Moore of Madison, from the committee to whom was referred the bill to be entitled an act, to alter and amend an act to reduce into one, the several acts concerning strays, reported the same without amendment.

On motion of Mr. M'Kinley, the said bill was indefinitely postponed. The yeas and nays being required on said motion, those who voted in the affirmative, are

Messrs. Armstrong of Mobile, Armstrong of Conecuh, Bigham, Benson, Bailey, Isaac Brown, Col. J. Brown, Chambers, Clay, Creagh, Cook, Coleman, Dale, Doxy, Davis, Edmundson, Fitzpatrick of Autauga, Hill, Isbell, Jackson, M'Kinley, Murrell, Moore of Marion, Perry, Skinner, Sargent, Smoot, Tagert—28.

Those who voted in the negative, are, Mr. Speaker, John Brown, Chapman, Cleveland, Coats, Fitzpatrick of Montgomery, Leake, Moore of Madison, Murphy, Morton, M'Means, M'Vay, Perkins, Rather, Shackelford, Vining, Walker, Weedon—18.

Mr. Chambers obtained leave to introduce a bill to be entitled an act providing for Representation of Jackson county, which was read a first time, and ordered for a second reading to-morrow.

Mr. M'Vay obtained leave to bring in a bill to be entitled an act to amend an act entitled an act to alter and amend the laws regulating the admission and practice of counsellors and attorneys at law, which was read the first time; and, the rule being dispensed with, it was read a second time, and ordered to be engrossed for a third reading to-morrow.

A message from the senate, by Mr. Farmer:

Mr. Speaker---I am instructed to inform you, that the senate have passed a bill to be entitled an act to repeal the second section of an act passed the 20th Dec. 1820, to establish certain election precincts therein named, and for other purposes, which originated in the House of Representatives.

Mr. Chambers obtained leave to introduce a Resolution allowing John M. Taylor three years to discharge a debt due the state by him, which was read a first and second time, and ordered to be engrossed for a third reading to-morrow.

Mr. Cleveland obtained leave to introduce a resolution authorizing the Treasurer of Montgomery county, to retain certain monies in his office, until otherwise directed by law, which was read a first and second time, and ordered to be engrossed for a third reading to-morrow.

On motion of Mr. Moore of Madison, the House took into consideration the bill to be entitled an act to amend an act entitled an act to provide for assessing and collecting of taxes, and for taking the census of the state, passed at the second session of the General Assembly, on the 22d day of Dec. 1820, the same being on its third reading.

Mr. M'Kinley moved to amend the said bill by way of rider, by adding sundry sections thereto, which were adopted. Mr. Moore of Madison, also moved an amendment by way of rider, which was adopted.

Mr. Rather also moved an amendment by way of Rider, which was passed.

Mr. Perry also moved an amendment by way of rider, which was passed.

Mr. Moore of Madison, moved to fill the first blank in the 4th section with the word "two" which was decided in the negative.

The yeas and nays being called for.

Those who voted in the affirmative, are

Mr. Speaker, Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Bigham, John Brown, Cleveland, Dale, Fitzpatrick of Autauga, Fitzpatrick of Montgomery, Leake, Moore of Madison, Murphy, Perry, Perkins, Smoot, Tagert—17.

Those who voted in the negative, are

Messrs. Benson, Bailey, Col. John Brown, Chambers, Clay, Creagh, Cook, Coats, Coleman, Draughon, Doxey, Davis, Edmondson, Hill, Holderness, Isbell, Jackson, Morton, Murrell, M'Means, Moore of Marion, M'Vay, Rather, Sargent, Vining, Walker, Weedon—27.

Mr. Abercrombie moved to fill the said blank with "one seventy" five, which was decided in the negative.

The yeas and nays being called for.

Those who voted in the affirmative, are

Mr. Speaker, Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Bigham, John Brown, Cleveland, Dale, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Holderness, Moore of Madison, Murphy, Perry, Perkins, Smoot, Tagert—17.

Those who voted in the negative, are

Messrs. Benson, Bailey, Col. John Brown, Chambers, Clay, Creagh, Cook, Coats, Coleman, Draughon, Doxey, Davis, Edmondson, Hill, Isbell, Jackson, Morton, Murrell, M'Means, Moore of Marion, M'Vay, Rather, Sargent, Vining, Walker, Weedon—26.

Mr. Chambers moved to fill the said blank with "one fifty" which was decided in the affirmative.

The yeas and nays being called for,

Those who voted in the affirmative, are

Messrs. Speaker Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Bigham, Benson, Bailey, John Brown, Col. John Brown, Chambers, Cleveland, Clay, Creagh,

Drayton, Dale, Doney, Davis, Edmondson, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Hill, Holderness, Isbell, Jackson, Moore of Madison, Murphy, M. Means, Perry, Perkins, Sargent, Smoot, Tagert, Vining, Walker, Weedon—35.

Those who voted in the negative, are Messrs. Cook, Coats, Coleman, Morton, Murrell, Moore of Marion, M. Vay, Rather—8.

Mr. Weedon moved to fill the blank in the 5th section, with "three" which was carried.

Mr. Moore of Madison, moved to fill the blank in the 6th section with "five" which was carried.

Mr. Moore of Madison, moved to fill the last blank with "three" which was carried.

On motion of Mr. Murphy, ordered, that the said bill lie on the table.

The bill to be entitled an act to apportion the Representatives among the several counties of this state, according to the returns of the late census, was read a third time and passed.

Ordered, that the said bill as amended, be sent to the senate for their concurrence.

The House adjourned until 3 o'clock this evening.

Evening Session.

The bill entitled an act to authorise executors, administrators, and guardians, to relinquish lands under the act of Congress, passed March, 1821, was read a third time.

Mr. Clay moved an amendment by way of rider, authorizing the county court of Laurence to assess a tax on the inhabitants of Laurence county, for the purpose of building a court house in said county, which was carried. Said bill was then passed.

Ordered, that the word "bill to be entitled" be stricken out, and the same be sent to the senate for their concurrence.

The bill to be entitled an act for the relief of John M. Flinn, was read a second time, and ordered to be engrossed for a third reading to-morrow.

The House resumed the consideration of the bill to be entitled an act to amend an act entitled an act to provide for assessing and collecting of taxes and taking the census of this state, passed at the second session of the General Assembly, on the 22d day of December 1820, and the blanks being filled, the bill was then passed.

Ordered, that the same be sent to the senate for their concurrence.

Mr. Chapman from the committee of enrolled bills, reported that said committee had examined bills of the following titles, to wit:

An act to authorise Malcolm Gilchrist of Laurence county to build a mill and other water works on the Muscle Shoals.

And an act to repeal the second section of an act, passed 20th December 1820, to establish certain election precincts therein named, and for other purposes, which said bills the said committee find correctly enrolled.

On motion of Mr. Morton the house took up the resolution to extend relief to William Terry for certain services rendered the state

of Alabama, as engineer, which was read the second time, amended and ordered to be engrossed for a third reading on to morrow.

The bill to be entitled, an act providing, a fund to defray the expences of the Cahawba bridge, was read.

On motion of Mr. Walker, ordered, that the same be indefinitely postponed.

Mr. Chapman from the committee on enrolled bills, reported, that the committee had examined bills of the following titles, to wit:

An act amendatory of certain acts, and establish certain election precincts therein mentioned.

And an act to authorizing licenced ministers of the Gospel to solemnize the rites of matrimony, which said bills the committee found correctly enrolled.

On motion of Mr. Moore, of Madison, the house took up the bill from the senate, entitled an act to reduce the expences of the General Assembly, which was read the first time.

Mr. Shackelford moved that said bill be indefinitely postponed, which was decided in the negative, ayes 12, nays 35.

The ayes and nays being called for. Those who voted in the affirmative, are

Messrs. Abercrombie, Armstrong of Mobile, Isaac Brown, John Brown, Col. John Brown, Coats, Dale, Isbell, Morton, Perkins, Shackelford, Smoot—12.

Those who voted in the negative, are,

Messrs. Speaker, Armstrong of Conecuh, Bigham, Benson, Bailey, Chambers, Chapman, Cleveland, Clay, Creagh, Cook, Coleman, Draughon, Doxy, Davis, Edmondson, Fitzpatrick of Autauga, Fitzpatrick of Montgomery, Hill, Holderness, Leake, M'Kinley, Moore of Madison, Murphy, Murrell, M'Means, Moore of Marion, M'Vay, Perry, Rather, Sargent, Tagert, Vining, Walker, Weedon—35.

So the said bill was not postponed. Ordered that the same be made the order of the day for a second reading on to-morrow.

Mr. John Brown obtained leave of the House to enter on the Journal the reasons for his vote, on the amendment to the bill from the senate, entitled an act to apportion the representatives among the several counties of this state according to the returns of the late census---which are as follows:

I have heretofore voted for the apportionment of both branches of the General Assembly; the opinions which influenced me on this subject although entertained with less confidence are not entirely changed, and in giving my vote on this occasion, I have been influenced by the consideration, that the senate will not permit the apportionment of that body, and the consideration that it is nevertheless the duty of the house of representatives to apportion their own body; being fully satisfied that further attempts to effect a change in the senate, will only produce a protracted session, and consequently unnecessary expence to the state.

Message from the senate by Mr. Dick: dated

Mr. President--The senate disagree to the amendments made by your honorable body, to the bill, entitled an act to apportion the representatives among the several counties of this state, according to

the returns of the late census, by adding two sections.--- They concur with the other amendments made to the bill. And then he withdrew.

Another message from the senate by Mr. Dick:

Mr. Speaker---I am instructed by the senate to inform your honorable body that the Senate have passed the bill entitled an act concerning the Cahawba bridge, and the bill, entitled an act to repeal in part and amend an act entitled an act to regulate the proceedings in the courts of law and equity in this state, to which latter bill they have made amendments, to which they respectfully ask the concurrence of this honorable body, and then he withdrew.

The House took into consideration the amendments made by the senate to the bill entitled an act supplementary to an act entitled an act to organize the militia of this state, passed at Cahawba, December 20, 1820.

On motion of Mr. Shackelford, the House disagreed to the amendment of the senate in striking out the third section of the said bill, and in inserting one in lieu thereof. On motion of Mr. Perkins, the amendment was amended by striking out the word "thirty third" in the seventh section, so as to read thirty fifth." On motion the House disagreed to the 9th section added to the bill by the senate. Ordered, that the senate be informed of the parts of their amendments to which this House has disagreed.

The House took into consideration the disagreement of the senate, to the amendment to the bill entitled an act to apportion the representatives among the several counties of this state, according to the returns of the late census. On motion of Mr. Murphy, ordered that this House insist on their amendments to the said bill, and that Messrs. M'Kinley, Armstrong of Mobile, Cleveland, Perkins and Cook, be a committee of Conference to act with such committee as may be appointed on the part of the senate, on the disagreement of the two houses to the said bill.

The House concurred in the amendment made by the senate, to a bill entitled an act concerning executions and for other purposes.

Ordered, that the senate be acquainted therewith.

The bill from the senate, entitled an act to change the name of the town of Ococoposo and for other purposes, was read the first time, and ordered for a second reading on to-morrow.

The House proceeded to consider the amendments made by the senate to the bill entitled an act to repeal in part and amend an act entitled an act to regulate the proceedings in the courts of law and equity in this state and agreed to all the amendments, made thereto, except, to the one requiring the Judges of the county court to give bond and security in \$20,000 for the faithful performance of their duty, to which amendment the House disagreed. Ayes 11, nays, 35.

The yeas and nays being called for, those who voted in the affirmative are,

Messrs. Benson, Chapman, Creagh, Hill, M'Kinley, Moore of Marion, Perry, Sargent, Tagert---11.

Those who voted in the negative, are,

Mr. Speaker, Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Bigham, Bailey, Isaac Brown, John Brown, Chambers, Cleveland, Clay, Cook, Coats, Coleman, Draughon, Dale, Doney, Davis, Edmondson, Fitzpatrick of Autauga, Holderness, Isbell, Leake, Moore of Madison, Murphy, Murrell, M'Means, M'Vay, Rather, Skinner, Shackelford, Smoot, Vining, Walker, Weedon—35.

The house having disagreed to the said amendments, *Ordered*, that the senate be acquainted therewith.

And then the house adjourned to 8 o'clock to-morrow.

WEDNESDAY, June, 13.

Mr. Morton from the select committee to whom was referred the petition of sundry inhabitants of Limestone, reported a bill to be entitled an act to repeal part of an act therein named, which was read first time, and *Ordered*, for a second reading on to-morrow. *Ordered*, that Mr. Isbell have leave of absence from this house after to-day.

Mr. Armstrong of Mobile moved to reconsider the vote of this House on the disagreement to the amendment made by the senate in the second section of the bill entitled an act to repeal in part, and amend an act, entitled an act to regulate the proceedings in the courts of law and equity in this state" requiring judges of the county court to give bond in the sum of \$20,000, which was carried.

Mr. Armstrong moved to amend the said section by striking out the word "twenty," which was carried.

Mr. Armstrong moved to amend the said bill by inserting in the blank occasioned by the striking out "twenty," the word "five" which was carried.

Message from the senate by Mr. Dick:

Mr. Speaker, The senate have appointed on their part Messrs. Elliott, Casey, and Rose, a committee to confer with the committee on the part of your honorable body, on the differences existing between both branches relative to the bill entitled an act to apportion representatives among the several counties of this state, according to the returns of the late census.

On motion of Mr. Cleveland, the house took up the resolution relating to the county of Montgomery, which was read a third time, and passed.

Ordered that the words, "a bill to be entitled" be stricken out and that the said bill be sent to the senate for their concurrence.

On motion of Mr. Weedon the house took up the bill from the senate to be entitled an act amendatory of certain laws now in force for the relief of insolvent debtors, which was read a second time.

On motion of Messrs. Moore of Madison, Perry and M'Kinley severally, the said bill was amended. It was then read a third time and passed. Message from the senate by Mr. Williams.

Mr. Speaker—The senate have passed the bill entitled an act authorizing executors, administrators, and guardians, to relinquish lands under the act of Congress, passed March 2d, 1821, and for other purposes, which originated in your honorable body.

They have also passed a bill entitled an act providing for the payment of costs in certain cases, in which they respectfully desire your concurrence.

The House took up the bill from the senate to be entitled an act providing for the payment of costs in certain cases, which was read a first time, and ordered for a second reading to-morrow.

On motion of Mr. M'Vay, the House took up the bill from the senate entitled an act to reduce the expences of the General Assembly.

Mr. Morton, moved that the said bill lie on the table which was lost.

The ayes and nays being called for. Those who voted in the affirmative, are

Messrs. Abercrombie, Armstrong of Mobile, Bigham, Isaac Brown, John Brown, Col. J. Brown, Cleveland, Cook, Coats, Coleman, Dale, Hill, Isbell, Jackson, Morton, M'Means, Perkins, Rather, Shackelford, Sargent, Smoot—21.

Those who voted in the negative, are

Mr. Speaker, Armstrong of Conecuh, Benson, Bailey, Chambers, Chapman, Clay, Creagh, Draughon, Doxey, Davis, Edmundson, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Holderness, Leake, M'Kinley, Moore of Madison, Murphy, Murrell, Moore of Marion, M'Vay, Perry, Skinner, Tagert, Vining, Weedon—27.

Mr. Morton, moved to insert the word "only" in the second section, so as to read "present General Assembly only" which was lost.

The ayes and nays being called for. Those who voted in the affirmative, are

Messrs. Abercrombie, Isaac Brown, John Brown, Col. John Brown, Chapman, Cleveland, Coats, Draughon, Dale, Doxey, Edmundson, Fitzpatrick of Autauga, Murphy, Morton, Murrell, M'Means, Smoot—17.

Those who voted in the negative, are

Mr. Speaker, Armstrong of Mobile, Armstrong of Conecuh, Bigham, Benson, Bailey, Chambers, Clay, Creagh, Cook, Coleman, Davis, Fitzpatrick of Montgomery, Hill, Holderness, Isbell, Jackson, Leake, M'Kinley, Moore of Madison, Moore of Marion, M'Vay, Perry, Perkins, Rather, Skinner, Shackelford, Sargent, Tagert, Vining, Walker, Weedon—32.

Mr. M'Kinley moved to strike out these words in the 2d section of the bill, to wit: "This act shall embrace the present session of the General Assembly," *only* which was carried, ayes 28, nays 19.

The yeas and nays being called for, Those who voted in the affirmative, are, Messrs. Speaker, Armstrong of Mobile, Armstrong of Conecuh, Bigham, Benson, Bailey, Col. Jno. Brown, Chambers, Clay, Cook, Coleman, Dale, Davis, Edmundson, Holderness, Isbell, Leake, M'Kinley, Moore of Madison, Moore of Marion, Perry, Rather, Skinner, Shackelford, Sargent, Vining, Walker, Weedon—28.

Those who voted in the negative are, Messrs. Abercrombie, Isaac Brown, John Brown, Chapman, Cleveland, Creagh, Coats, Draughon, Doxey, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Jackson, Murphy, Morton, Murrell, M'Means, Perkins, Smoot, Tagert—19.

Mr. Perkins moved to strike out the word "*three*" the per diem allowed to each member of the General Assembly; which was carried, ayes 30, nays 19.

The yeas and nays being called for, those who voted in the affirmative, are Mr. Speaker, Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Bigham, Isaac Brown, John Brown, Col. Jno. Brown, Chambers, Cleveland, Creagh, Cook, Coats, Draughon, Dale, Doxey, Davis, Edmundson, Hill, Isbell, Jackson, Murphy, Morton, Moore of Marion, Perkins, Skinner, Sargent, Smoot, Tagert, Vining—30.

Those who voted in the negative, are, Messrs. Benson, Bailey, Chapman, Clay, Coleman, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Holderness, Leake, M'Kinley, Moore of Marion, Murrell, M'Means, M'Vay, Perry, Rather, Shackelford, Walker, Weedon—19.

Mr. Perkins, then moved to fill the blank with the word "*four*" which was carried, yeas 27, nays 22.

The yeas and nays being called for, those who voted in the affirmative, are Messrs. Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Bigham, Isaac Brown, John Brown, Col John Brown, Creagh, Cleveland, Cook, Coats, Draughon, Dale, Doxey, Edmondson, Hill, Isbell, Jackson, Murphy, Morton, Moore of Marion, Perkins, Skinner, Sargent, Smoot, Tagert, Vining—27.

Those who voted in the negative, are, Mr. Speaker, Benson, Bailey, Chambers, Chapman, Clay, Coleman, Davis, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Holderness, Leake, M'Kinley, Moore of Madison, Murrell, M'means, M'Vay, Perry, Rather, Shackelford, Walker, Weedon—22.

Mr. Moore of Madison, moved the adoption of the following amendment to the end of the first section of the said bill, to wit: "Provided the members of the present session of the Legislature shall receive dollars per day for every days attendance on the Legislature, and dollars for every twenty miles in travelling to & from the seat of government the most usual and common road, & no more."--which was decided in the negative, yeas 13, nays 36.

The yeas and nays being called for, those who voted in the affirmative, are, Mr. Benson, Chapman, Coats, Draughon, Davis, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Moore of Madison, Murphy, Morton, Murrell, M'means, Weedon—13.

Those who voted in the negative, are Mr. Speaker, Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Bigham, Bailey, Isaac Brown, John Brown, Col. John Brown, Chambers, Cleveland, Clay, Creagh, Cook, Coleman, Dale, Doxey, Edmondson, Hill, Holderness, Isbell, Jackson, Leake, M'Kinley, Moore of Marion, M'Vay, Perry, Perkins, Rather, Skinner, Shackelford, Sargent, Smoot, Tagert, Vining, Walker—36.

So the said amendment was not adopted.

Mr. Abercrombie moved to strike out the word "five" in that part of the bill allowing the *per diem* compensation to the President of the senate and Speaker of the house of representatives, which was carried. Yeas 30, Nays 19.

The yeas and nays being called for, those who voted in the affirmative are,

Messrs. Abercrombie, Armstrong of Mobile, Benson, Isaac Brown, John Brown, Col. John Brown, Chambers, Chapman, Cleveland, Creagh, Cook, Coats, Dale, Draughon, Doxey, Edmondson, Fitzpatrick of Montgomery, Hill, Isbell, Leake, M'Kinley, Moore of Madison, Morton, M'means, Moore of Marion, Perry, Sargent, Smoot, Tagert Vining, 30.

Those who voted in the negative are, Messrs. Speaker, Armstrong of Conecuh, Bigham, Baily, Clay, Coleman, Davis, Fitzpatrick of Autauga, Holderness, Jackson, Murphy, Murrell, M'Vay, Perkins, Rather, Skinner, Shackelford, Walker, Weedon, 19.

And the house adjourned until 3 o'clock.

Evening Session.

On motion of Mr. M'means the house took up the bill to be entitled an act to repeal part of an act entitled an act, to vest certain lots in the Intendant and council of the town of Cahawba, and for other purposes, which was read a third time, and passed.

Ordered, that the title be as aforesaid, and that the same be sent to the senate for their concurrence.

The bill to be entitled an act to fix the permanent seat of justice in the county of St. Clair, was read a third time.

On motion of Mr. Coleman the same was amended by way of rider. The bill was then passed.

Ordered, that the same be sent to the senate for their concurrence.

The house resumed the consideration of the bill to reduce the expenses of the General Assembly, the blank occasioned by striking out "five" in the first section, allowing the per diem compensation to the President of the senate and the Speaker of the house of representatives, being under consideration.

On the motion to fill the said blank with "six," it was decided in the affirmative. Yeas 24, Nays 17.

The yeas and nays being called for, those who voted in the affirmative are,

Messrs. Abercrombie, Armstrong of Mobile, Benson, Isaac Brown, John Brown, Col. John Brown, Chambers, Chapman, Creagh, Cook, Coats, Cleaveland, Dale, Doxey, Edmundson, Hill, Leake, M'Kinley, Moore of Madison, Morton, Moore of Marion, Smoot, Taggart, Vining. 24.

Those who voted in the negative, are

Messrs. Armstrong of Conecuh, Bigham, Bailey, Clay, Coleman, Davis, Fitzpatrick of Autauga, Holderness, Jackson, Murrel, M'Vay, Perkins, Rather, Skinner, Shackelford, Walker, Weedon—17.

Mr. Smoot moved to strike out the 4th section of the said bill, which was decided in the affirmative. **Ordered**, that said bill be the order of the day for a third reading on to-morrow.

The bill from the senate, entitled an act for the relief of master builders and mechanics in the city of Mobile, in the state of Alabama, was read the third time, as amended and passed.

On motion of Mr. Armstrong of Mobile, the title of said bill was so amended, as to read a bill to be entitled an act for the relief of the master builders and mechanics, in the State of Alabama. **Ordered**, That the same be sent to the senate, and that their concurrence in said amendments be requested.

Resolution to extend relief to Wm. Terry, for certain services rendered the state of Alabama as engineer, was read the third time.

Mr. Morton moved to fill the blank, allowing compensation to said Terry for said services, with "two thousand" which was decided in the negative. Yeas 17, nays 28.

The yeas and nays being called for. Those who voted in the affirmative, are

Messrs. Abercrombie, Armstrong of Conecuh, Cleveland, Creagh, Draughon, Dale, Doxey, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Leake, Murphy, Morton, Murrell, M'Means, Perry, Shackelford, Taggart 17.

Those who voted in the negative, are

Mr. Speaker, Armstrong of Mobile, Bigham, Benson, Bailey, Isaac Brown, John Brown, Col. John Brown, Chambers, Chapman, Clay, Coats, Coleman, Davis, Edmondson, Hill, Holderness, Jackson, M'Kinley, Moore of Madison, M'Vay, Perkins, Rather, Skinner, Sargent, Vining, Walker, Weedon—28.

Mr. Morton moved to fill the said blank with "nineteen hundred," which was lost.

Mr. Shackelford moved to fill the blank with "seventeen hundred and fifty" which was carried. Yeas 27, nays 18.

The yeas and nays being called, for. Those who voted in the affirmative, are

Messrs. Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Benson, Chambers, Cleveland, Creagh, Cook, Draughon, Dale, Doxey, Edmondson, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Holderness, Leake, Moore of Madison, Murphy, Morton, Murrel, McMeans, Perry, Shackelford, Sargent, Smoot, Tagert, Vining—27.

Those who voted in the negative, are

Mr. Speaker, Bigham, Bailey, Isaac Brown, John Brown, Col. John Brown, Chapman, Clay, Coats, Coleman, Davis, M'Kinley, M'vay, Perkins, Rather, Skinner, Walker, Weedon—18.

So the said blank was filled with "seventeen hundred and fifty."

Ordered, That the said resolution be sent to the senate for their concurrence.

The bill to be entitled an act to incorporate the town of Hazle Green, in the county of Madison, was read the third time and passed.

Ordered, that the title be as aforesaid, and that the same be sent to the senate for their concurrence.

The bill to be entitled an act for the relief of John M. Flinn, was referred to a select committee, consisting of Messrs. Weedon, Murphy and Holderness.

The bill to be entitled an act for the relief of the occupants of the lands selected for the use of the university within this state, and rented before the approval thereof, was read the third time, and the question being stated, shall the bill pass? it was decided in the negative.

The bill to be entitled an act imposing a tax on non resident and transient persons importing goods, wares or merchandize into the city of Mobile, and town of Blakeley, was read a third time and passed.

On motion of Mr. Armstrong of Mobile, the title of said bill was so amended, as to read, "a bill to be entitled an act imposing a tax on non-resident and transient persons making sale of goods, wares and merchandize in this state."

Ordered, that the same be sent to the senate for their concurrence.

The bill to be entitled an act providing for the representation of the county of Jackson, was read.

Ordered, that said bill lie on the table.

The bill to be entitled an act to establish the county of _____ was ordered to lie on the table.

The bill to be entitled an act to amend an act passed at Huntsville December 16, 1819, entitled an act to establish a public road therein named, was read a third time and passed.

Ordered, that the title be as aforesaid, and that the same be sent to the senate for their concurrence.

The bill from the senate to be entitled an act to change the name of the town of Ococoposo, and for other purposes, was read the third time and passed.

Ordered, that the senate be acquainted therewith.

Resolution extending the time of payment of a certain sum of money due to this state by John M. Taylor, was read a third time and

Ordered, that the same be sent to the senate for concurrence on their part.

On motion of Mr. Morton, ordered, that Mr. Doxey have leave of absence for the remainder of the session.

The bill to be entitled an act to alter and amend the laws regulating the admission of counsellors and attorneys at law, was read the third time and passed.

Ordered, that the title be as aforesaid, and that the same be sent to senate for their concurrence.

Mr. Weedon obtained leave to introduce a bill to be entitled an act to incorporate the Worshipful Grand Lodge of Ancient free Masons of Alabama, and its masonic jurisdic^t, which was read the first time, and the rule being dispensed with, was read a second time forthwith.

Ordered, that the same be engrossed and made the order of the day for a third reading tomorrow.

Mr. Perry obtained leave to introduce a bill to be entitled an act authorising the collection of toll at the Cahawba bridge, which was read the first time, and ordered for a third reading on tomorrow.

Mr. Armstrong from the joint committee to whom was referred the drafting of a memorial to the Congress praying a change in the district court of the United States, reported a memorial, which was adopted by the house.

And the House adjourned till tomorrow 8 o'clock.

THURSDAY, June, 14th

The bill to be entitled an act authorizing the collection of toll at the Cahawba Bridge, was read a second time and ordered to lie on the table.

The bill to be entitled an act to repeal part of an act therein named was read the second time, and the rule requiring bills &c. to be read on three several days being dispensed with, the same was read a third time and amended by rider and passed.

Ordered that the senate be acquainted therewith.

Message from the senate by Mr. Chambers:

Mr. Speaker, the senate concur in the amendment made by your honorable body to their amendment of the second section of the bill entitled an act to regulate the proceedings in the courts of law and equity in this state, in striking out the word "twenty" and inserting in lieu thereof, the word "five." And then he withdrew.

Mr. Chapman from the committee on enrolled bills, reported that the committee had examined bills of the following titles, to wit:

An act to amend an act entitled an act to establish a bank in the town of Mobile, passed at St. Stephens the 20th November 1818.

An act to authorize the the Comptroller to make arrangements with Levan Powell to secure a certain sum of money therein named.

An act to authorize executors, administrators and guardians, to relinquish lands under the act of Congress, passed the 2d day of March 1821.

An act concerning executions, and for other purposes, and an act to change the name of Occoposo, and for other purposes, which said bills the committee find duly enrolled.

Message from the senate by Mr. Farmers.

Mr. Speaker, the senate adhere to the amendments to the bill entitled an act supplementary to an act entitled an act to organize the militia of this state, passed at Cahawba December 20, 1820 and for other purposes, by striking out the 3d section thereof and substituting another in lieu thereof.

They concur in their amendments to this amendment of the seventh section. They recede from their amendment to the bill in adding the 10th section. And then he withdrew.

The House resolved itself into a committee of the whole on the bill from the senate to reduce the expenses of the General Assembly and for other purposes, certain parts of the 2d section of said bill being under consideration; and after sometime spent therein, Mr. Speaker resumed the chair and Mr. Weedon reported the bill to the House with an amendment, in which the House concurred. The bill as amended, was then passed.

Ordered, that the senate be acquainted therewith.

The House resolved itself into a committee of the whole on the bill from the senate, entitled an act providing for the payment of costs in certain cases, and after sometime spent therein Mr. Speaker resumed the chair, and Mr. M'Vay reported the bill to the house, with amendments, in which amendments the house concurred in part. Ordered, that the said bill be the order of the day for a third reading on tomorrow.

The bill to be entitled an act to incorporate the Worshipful Grand Lodge of ancient Free Masons of Alabama, and its masonic jurisdiction, was read the third time and passed. Ordered, that the same be sent to the senate for their concurrence.

The house having proceeded to take into consideration the adherence of the senate to their amendments to the bill to be entitled an act supplementary to an act to organize the militia of this state. On motion of Mr. Armstrong of Mobile, Ordered, That the said bill lie on the table.

Mr. Armstrong of Mobile introduced a resolution to accompany the memorial to the Congress of the United States, which was read a first time, and the rule being dispensed with, was read the second and third time forthwith, and passed. Ordered, That the memorial and resolution be sent to the senate for their concurrence.

And then the House adjourned till three o'clock.

Evening Session.

Mr. Chapman from the committee on enrolled bills, reported that said committee had examined an act to repeal in part and amend an act entitled an act to regulate the proceedings in the courts of Law and Equity in this State, and find the same correctly enrolled.

A message from the senate by Mr. Dick.

Mr. Speaker.---The senate concur in all the amendments made by your honorable body to the bill entitled an act to reduce the expenses of the General Assembly and for other purposes, excepting that part striking out the third section to which they disagree.

They concur in all the amendments made to the bill to be entitled an act for the relief of the master builders and mechanics of the city of Mobile in the State of Alabama. They concur also in the amendment made to the title of said bill.

They have passed a bill entitled an act explanatory to the laws concerning the stay of executions and fees of certain officers therein named, in which they desire your concurrence.

On motion of *Mr. M-Means*, the House took into consideration the bill to be entitled an act authorizing the collection of toll at the Cahawba Bridge, was read the second time and amended. And the rule being dispensed with, was read the third time and passed. Yeas 33, nays 10. The yeas and nays being called for.

Those who voted in the affirmative, are

Messrs. Speaker, Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Bigham, Benson, Bailey, John Brown, Chambers, Cleveland, Clay, Creagh, Cook, Coats, Coleman, Draughton, Dale, Davis, Hill, Holderness, Jackson, Leake, Moore of Madison, Murphy, Morton, Murrell, M-Means, Moore of Marion, Perry, Shaclesford, Sergeant, Tagert, Weedon--33.

Those who voted in the negative are,

Messrs. Isaac Brown, Col. John Brown, Edmundson, Fitzpatrick of Autauga, Fitzpatrick of Montgomery, M'Vay, Perkins, Rather, Skinner, Vining, 10.

Message from the senate by *Mr. Dick*: *Mr. Speaker*, the senate have passed the following bills, to wit:

A bill entitled an act to repeal part of an act entitled an act, to vest certain lots in the Intendent and council of the town of Cahawba.

And a bill entitled an act to incorporate the most worshipful grand lodge of ancient free masons of Alabama, and its masonic jurisdiction, both of which bills originated in your honorable body. And then he withdrew.

On motion, ordered that this House insist on the amendments to the bill from the senate, entitled an act to reduce the expences of the General assembly, and for other purposes.

Ordered, that the senate be acquainted therewith.

The bill from the senate entitled an act explanatory of the laws concerning the stay of executions and fees of certain officers therein named, was read the first time.

Mr. Perkins moved, that said bill be indefinitely postponed, which was decided in the negative. Yeas 15, Nays 23.

The yeas and nays being called for, those who voted in the affirmative are,

Messrs. Armstrong of Conecuh, Isaac Brown, Col. John Brown, Cleveland, Coats, Davis, Fitzpatrick of Autauga, Hill, Jackson, Leake, Murrell, M-means, Perkins, Skinner, Tagart, 15.

Those who voted in the negative are, Messrs. Speaker, Bigham, Benson, Bailey, John Brown, Chambers, Clay, Creagh, Cook, Coleman, Draughon, Dale, Edmundson, Fitzpatrick of Montgomery, Holderness, Murphy, Moore of Marion, M'Vay, Perry, Rather Shackleford, Vining, and Weedon, 23.

Ordered, that said bill be made the order of the day for a 2d reading on to morrow.

Message from the senate by Mr. Elliott:

Mr. Speaker, the senate have passed the memorial to the Congress of the United States and the accompanying resolution, which originated in this house, and have amended the same, to which they ask the concurrence of your honorable body. And then he withdrew.

On motion of Mr. Morton, a resolution was adopted, that this house will be ready to receive the senate at the hour of half past seven o'clock, this evening, for the purpose of proceeding to the election of Judges of the county courts.

Ordered, that the senate be acquainted therewith, and that they be invited to attend at the hour aforesaid.

On motion of Mr. John Brown the house receded from their disagreement to the amendments made by the senate to the bill entitled an act supplementary to an act entitled an act to organize the militia of this state, in regard to the 3d section of said bill.

Ordered, that the senate be acquainted therewith.

Message from the acting Governor by Mr. Rogers:

Mr. Speaker, I am instructed by the acting Governor to inform you, that he did on the 11th inst. approve and sign,

An act to amend an act entitled an act to establish a bank in the town of Mobile, passed at St. Stephens 20th November 1818.

And a resolution authorizing the comptroller to collect a sum of money therein named.

On the 12th inst.

An act to repeal the second section of an act passed 20th December 1820, to establish certain election precincts therein named, and for other purposes.

An act to authorize Malcolm Gilchrist to build a mill, and other water works on the Muscle shoals.

On the 14th inst.

An act concerning executions, and for other purposes.

An act to repeal in part and amend an act entitled an act to regulate proceedings in the courts of law and equity, in this state.

And an act to authorize executors administrators and guardians to relinquish lands under the act of Congress, passed 2nd March 1821; all of which originated in this honorable body.

A message from the senate by Mr. Dick.

Mr. Speaker.--The senate have passed the bill, which originated in your honorable body, entitled an act to amend an act entitled an act to provide for assessing and collecting of taxes and for taking the census of this State, passed at the 2d session of the General Assembly on

the 22d day of December, 1820, to which they have made amendments, to which they have instructed me to ask your concurrence.

The House on motion proceeded to the consideration of the said amendments and concurred in the third, fourth, fifth, sixth and ninth amendments, to the other amendments the House disagreed. *Ordered*, That the senate be acquainted therewith.

Message from the Senate by Mr. Dick :

Mr. Speaker, The Senate adhere to their disagreement to the amendment proposed by your honorable body to the bill entitled an act to reduce the expenses of the General Assembly and for other purposes.

They have passed the following bills, which originated in your honorable body, to wit: a bill entitled an act to amend an act to alter and amend the laws regulating the admission and practice of counsellors and attorneys at law, and a resolution appointing persons to examine Tuskalooosa river, to which they have made sundry amendments, in which they ask your concurrence. And then he withdrew. On motion, it was decided that the House recede from their amendments to the bill from the senate, entitled an act to reduce the expenses of the General Assembly, and for other purposes. Yeas 29, nays 13. The yeas and nays being called for.

Those who voted in the affirmative, are

Mr. Speaker, Bigham, Benson, Bailey, Chambers, Chapman, Cleveland, Creagh, Cook, Coleman, Davis, Edmundson, Fitzpatrick of Autauga, Hill, Holderness, Jackson, Leake, Moore of Madison, Murrell, Moore of Marion, M'Vay, Perry, Rather, Skinner, Sargent, Tagert, Vining, Walker, Weedon—29.

Those who voted in the negative, are

Messrs. Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Isaac Brown, John Brown, Coats, Draughon, Dale, Fitzpatrick of Montgomery, Murphy, Morton, Perkins, Shackelford—13.

Ordered, That the senate be informed thereof.

Message from the senate by Mr. Chambers.

Mr. Speaker.---The senate concur in the resolution of your honorable body for the purpose of proceeding to the election of Judges of the county court at half past seven o'clock this evening.

The House concurred in the amendments made by the senate to the resolution appointing persons to examine Tuskalooosa river, except the last, providing for compensation to those persons. *Ordered*, That the senate be acquainted therewith.

Mr. Weedon obtained leave to introduce a bill to be entitled an act concerning persons residing on the university lands and who have not rented the same, and for other purposes; which was read a first time; and the rule being dispensed with, it was read a second time, when Mr. Shackelford moved the following as an amendment, which was rejected. *And be it further enacted*, that the provisions of this act shall not extend to persons living in any county where commissioners have not been appointed or where they have refused to act. And the rule being further dispensed with, it was read a third time and passed.

Ordered that the words "a bill to be entitled" be stricken out, and that the said bill be sent to the senate for their concurrence.

Message from the senate by Mr. Dick: The senate have read the third time and passed a resolution to extend relief to William Terry, for certain services rendered the state as engineer, which originated in your honorable body.

The House then adjourned to a quarter past seven o'clock this evening.

Evening Session.

Ordered, that the senate be informed that this House is now ready to receive that body to proceed to the election of Judges of the County Court. The senate having assembled in the Hall of the House of Representatives, the two houses proceeded to said elections.

For the county of Mobile, Hugh H. Rolston alone being in nomination, every member present voting for him, the Speaker declared him duly elected.

For the county of Baldwin, Thomas Heald alone in nomination, and every member present voting for him, the Speaker declared him duly elected.

For the county of Clarke, John G. Creagh alone being in nomination and every member present voting for him, the Speaker declared him duly elected.

For the county of Washington, Francis H. Gaines alone in nomination, and every member present voting for him, the Speaker declared him duly elected.

For the county of Monroe, Nathaniel Dodson alone in nomination, and every member present voting for him, the Speaker declared him duly elected.

For the county of Conecuh, Samuel Burnett alone being in nomination, and every member present voting for him, the Speaker declared him duly elected.

For the county of Henry, William Watson alone, being in nomination, and all the members present voting for him, he was announced duly elected.

For the county of Butler, William Lee alone, being in nomination, and all the members present voting for him, the Speaker announced him duly elected.

For the county of Wilcox Reuben Hill alone, being in nomination, and all the members present voting for him, the Speaker, announced duly elected.

For the county of Marengo, Shelby Corzine alone, being in nomination, and all the members present voting for him the Speaker announced him duly elected.

For the county of Greene, William Murfree alone, being in nomination, and all the members present voting for him, he was announced by the Speaker duly elected.

For the county of Perry, Edwin D. King, alone being in nomination and all the members present voting for him, the Speaker announced him duly elected.

For the county of Dallas, Jesse Beene alone, being in nomination, and all the members present voting for him, he was announced duly elected.

For the county of Autauga, John Ashly alone, being in nomination and all the members present voting for him, he was announced duly elected.

For the county of Montgomery, Nimrod E. Benson and John D. Bibb being in nomination, those who voted for Mr. Benson, are

Mr. President, Chambers, Dennis, Elliott, Farmer, Garth, Gaines, Gause, Hanby, Hogg, Lucas, Ringgold, Rose, Terrell, Ware of the senate, Mr. Speaker, Benson, Bailey, Isaac Brown, John Brown, Col. John Brown, Creagh, Coats, Coleman, Draughon, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Hill, Jackson, Murphy, Murrell, M'Means, Moore of Marion, Perry, Perkins, Skinner, Sargent—37.

Those who voted for Mr. Bibb, are,

Mr. Davis, Devereux, Trotter of the senate; Messrs. Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Bigham, Chambers, Cleveland, Clay, Cook, Dale, Davis, Edmundson, Holderness, Leake, M'Kinley, Moore of Madison, Morton, M'Vay, Rath-er, Shackelford, Smoot, Tagert Vining, Walker and Weedon—27.

Whereupon Mr. Speaker announced Mr. Benson duly elected.

The House then proceeded to the election of Judge of the county court of Bibb county, Andrew M. Lusk alone being in nomination, and all the members present voting for him, he was announced by the Speaker, duly elected.

For the county of Shelby, Thomas W. Smith alone being in nomination, and all the members present voting for him, the Speaker announced him duly elected Judge of the county court of Shelby county.

For the county of St. Clair, Polydore Naylor alone, being in nomination and all the members present voting for him, Mr. Speaker announced him duly elected Judge of the county court of St. Clair county.

For the county of Tuscaloosa Hume R. Field alone, being in nomination, and all the members present voting for him, he was announced, by the Speaker, duly elected Judge of the county court of Tuscaloosa county.

For the county of Jefferson, Thomas W. Farrar being alone in nomination, all the members present voting for him, he was announced by the Speaker, duly elected Judge of the county court of Jefferson county.

For the county of Blount William B. Wallace alone, being in nomination, and all the members present voting for him, he was announced by the Speaker, duly elected Judge of the county court of Blount county.

For the county of Catoosa, Robert Tapscot alone being in nomination and all the members present voting for him, he was announced by the Speaker, duly elected Judge of the court of Catoosa county.

For the county of Franklin John S. Fulton being in nomination, and all the members present voting for him, he was announced by the Speaker, duly elected Judge of the county court of Franklin county.

For the county of Marion, William Metcalf and George White being in nomination.

Those who voted for Mr. Metcalf are (of Senators) Messrs. President, Casey, Chambers, Dennis, Devereux, Elliott, Farmer, Garth, Gause, Gaines, Hanby, Hogg, Lucas, Ringgold, Rose, Terrell, Trotter, Ware. (of the Representatives) Armstrong of Conecuh, Bigham, Bailey, Isaac Brown, John Brown, Chambers, Chapman, Cleveland, Creagh, Cook, Coleman, Dale, Jackson, Murphy, Murrell, Mcmeans, M'Vay, Skinner, Sargent and Tagert, 38.

Those who voted for Mr. White are Messrs. Davis, (Senator) (of the Representatives) Mr. Speaker, Abercrombie, Armstrong of Mobile, Benson, Clay, Coats, Draughon, Davis, Edmundson, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Hill, Holderness, Leake, M'Kinley, Moore of Madison, Moore of Marion, Morton, Perry, Perkins, Rather, Shackelford, Smoot, Vining. Walker and Weedon. 27.

Whereupon Mr. Speaker announced William Metcalf duly elected Judge of the county court of Marion county.

For the county of Pickens Francis Flournoy only being in nomination and all the members present voting for him, the Speaker announced him duly elected Judge of the county court of Pickens county.

For the county of Lawrence, John Mosley being in nomination and all the members present voting for him, the Speaker announced him duly elected Judge for the county court of Lawrence county.

For the county of Lauderdale, William S. Fulton alone, being in nomination, all the members present voting for him he was announced by the Speaker duly elected Judge of the county court of Lauderdale county.

For the county of Limestone, Nicholas Davis being in nomination, and all the members present who voted, voting for him, and there being a constitutional majority he was announced duly elected, Judge of the county court of Limestone county.

For the county of Madison, Samuel Chapman, and Henry Minor being in nomination.

Those who voted for Mr. Chapman, are,

Messrs. President, Dennis, Devereux, Farmer, Gaines, Gause Ringgold, Rose, Ware, (Rep.) Mr. Speaker, Armstrong of Mobile, Armstrong of Conecuh, Bigham, Benson, Bailey, Isaac Brown, John Brown, Col. John Brown, Chambers, Clay, Creagh Cook, Coleman, Draughon, Dale, Davis, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Hill, Holderness, M'Kinley, Murphy, Murrell, M'Means, M'Vay, Moore of Marion, Perry, Rather, Skinner, Shackelford Sargent, Smoot, Tagert,—43

Those who voted for Mr. Minor, are,

Messrs. Chambers Davis, Hogg, Lucas Terrell, (Rep.) Abercrombie, Cleveland, Coats, Edmundson, Leake, Moore of Madison, Morton, Perkins, Vining, Walker,—15.

Whereupon Mr. Speaker announced Samuel Chapman, duly elected.

The house then proceeded to the election of Judge for Jackson county, James Russell and William Barclay being in nomination.

Those who voted for Mr. Russell, are,

Messrs. Casey, Chambers, Dennis, Elliott, Farmer, Gause, Gaines, Hanby, Hogg, Lucas, Rose and Terrell. (Rep.) Messrs. Speaker, Benson, Bailey, John Brown, Col. J. Brown Chambers, Chapman, Creagh Coleman, Draughon, Davis, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Hill, Jackson, Murphy, Murrell, Skinner, Sargent Tagert and Vining—33.

Those who voted for Mr. Barclay, are, Messrs. President, Davis, Devereux, Garth, Ringgold, Ware, (Rep.) Mr. Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Bigham, Isaac Brown, Cleaveland, Clay, Cook, Coats, Dale, Edmundson, Holderness, Leake, M'Kinley, Moore of Madison, Norton, M'Means, Moore of Marion, M'Vay, Perry, Perkins, Rather, Shackelford, Walker, Weedon—31.

Whereupon the Speaker announced Mr. Russell duly elected Judge of the county court of Jackson county.

And then the House adjourned. FRIDAY, June 15, 1821.

Mr. Walker moved that Mr. Benson have leave of absence for the remainder of the session, which was decided in the negative.

Mr. Weedon from the select committee to whom was referred the bill for the relief of John M. Flinn, submitted a report, accompanied with an amendment to the said bill, which was read and concurred in and the rule being dispensed with, the same was read the third time and passed. Ordered, that the said bill be sent to the senate for their concurrence.

The following is the report submitted by the aforesaid committee.

The committee to whom was referred the accounts of John M. Flinn tax collector for the county of Monroe, have had the same under consideration, and have directed me to make the following report upon the certificate of allowance from the circuit court of the said county of Monroe, and certificate of coroners inquest; the committee has thought proper to allow the amounts therein charged, with regard to the other demands upon the treasury supported by receipts from M. D. Wilson, Esq. late of Monroe county---the committee is not furnished with sufficient information either to reject or admit them, but is disposed to defer the consideration of their demands until the next session of the General Assembly, that they may be more correctly investigated. They beg leave further to report that it is deemed expedient to extend the payment of the balance certainly due the state for a limited time, upon the said Flinn giving ample security. The committee deems it expedient to pursue this course more with a view ultimately to secure the demand than to give relief to persons indebted, therefore, have reported said bill with amendments.

FREDERICK WEEDON, Chairman of Committee.

Mr. Chapman from the committee on enrolled bills reported, that the committee had examined a

Resolution to extend relief to William Terry for certain services rendered the state of Alabama, as engineer.

And an act to alter and amend the laws regulating the admission and practice of cancellors and attorneys at law.

An act amendatory of the laws now in force for the relief of insolvent debtors.

An act for the relief of the master builders and mechanics of the state of Alabama.

And an act to reduce the expences of the General Assembly, and for other purposes, which said bills said committee found correctly enrolled.

Mr. M'Kinley from the committee of conference on the disagreement of the two houses to the bill to apportion the representatives among the several counties of this state, according to the returns of the late census; submitted the following report:

The managers appointed on the part of the house of Representatives to confer with those appointed on the part of the senate, on the disagreement of the two Houses, in the amendments made in this House to the bill to be entitled an act to apportion the representatives among the several counties in this state according to the returns of the late census, beg leave to report:

That they have met the managers on the part of the senate, but have been unable to proceed in the conference because the latter insist, that by parliamentary rule, this is a simple conference only; and require of this committee the reasons of this house, in writing, in support of those amendments. This committee not having been furnished by the house with their reasons, were unable to furnish them to the managers appointed by the senate. This committee would beg leave to suggest that at the conference appointed at the last session of the General Assembly, the committees were appointed in the same manner as at the present session, and to confer on the same subject, and proceeded as in committee of free conference. Until this morning your committee was not informed that a different course would be required, and had prepared reasons in support of the course pursued by this house, which they were ready to offer to the committee on the part of the senate, and which they declined receiving on the ground of the conference not being free, unless this committee would give them as the reasons of this house and grant time for an answer. Conceiving that they had no such power, your committee declined doing so.

The following are the reasons which this committee had prepared, and were ready to submit to the managers appointed by the senate.

Signed, J. M. KINLEY, *Chairman of the Committee of Conference.*

The managers appointed on the part of the House of Representatives to confer with those appointed by the senate on the disagreement of the senate to the amendments made by the House of Representatives to the bill which originated in the senate to be entitled an act to apportion the representatives among the several counties of this State, according to the returns of the late census; have the honor of submitting to the managers on the part of the senate the reasons which influenced the House of Representatives, to make and insist upon those amendments. The term of service of senators mentioned in the 8th section of the schedule to the constitution, has given rise to this disagreement; the Senate believing that the House of Representatives only ought to be apportioned, and the House of Representatives insisting upon apportioning both branches. In expounding the meaning of the term of service of the present senators, the House of Representatives have examined such parts of the constitution as they conceived had a necessary connexion with the subject. The third article pro-

vides for the election and organization of the legislative department, confers the powers for ordinary legislation, and also the power of perpetuating its own existence, by requiring the passage of such laws from time to time as are there prescribed for that purpose; and at the end of the body of the constitution is appended a schedule which explains in its commencement the object for which it was designed "that no inconvenience may arise from a change of territorial to a permanent state government, it is declared" is the language used. In this schedule provision is made for a temporary legislative body inconsistent with the principles laid down in the third article of the constitution. The reasons which induced this measure are obvious; no enumeration having been then made, the population of each county was uncertain and an arbitrary rule of representation had to be resorted to; founded no doubt upon a compromise of conflicting interests and opinions. This body was necessary to put the government into motion, and bring into operation its permanent features, and was therefore not intended to last any longer than "until" that object could be effected. The 8th section of the schedule therefore "declares" that "until the first enumeration shall be made as directed by this constitution, the county of Autauga shall be entitled to two representatives." And according to the arbitrary rule established, proceeds to apportion representatives among the other counties, and concludes by adding "and each county shall be entitled to one senator who shall serve for one term." To ascertain when this enumeration is to take place and what is meant by "one term" we are compelled to resort to the third article of the body of the constitution. The 9th section of that article shews when the enumeration is to be made and that the apportionment of the House of Representatives is to be made at the next session thereafter. The 10th section of the same article shews that the state is to be divided into senatorial districts, and the whole number of senators fixed by law, at the same time that the House of Representatives is apportioned, and also declares that there shall be one senator for each district and no more." Provided the whole number of senators shall never be less than one fourth, nor more than one third of the whole number of Representatives. Taking the 8th section of the schedule and the 9th and 10th sections of the third article together, the meaning of each can be explained and reconciled without doing the slightest violence to either. Both branches of the General Assembly created by the 8th section of the schedule are limited in duration by the words "until the first enumeration." The term of service of neither, has any thing to do with the question by limitation. The proper enquiry is how long can the General Assembly thus peculiarly organized and in opposition to the permanent provisions of the government last? The answer is given in the schedule in these words "until the first enumeration shall be made, as directed by this constitution." The 9th section of the 3d article points out the time when that enumeration shall be made, and thus far the provisions of that section have been complied with; the enumeration has been made and returned, bringing the 10th section into operation according to its let-

fer and spirit, and it unites with the words of limitation in the 8th section of the schedule and the time of making the enumeration fixed by the 9th sec. of the 3d article and fixes the inevitable term of service of the present senators to two years, unless, indeed, the term of service spoken of in the 8th section of the schedule can bear down and control the words of limitation in that section and the united force of the 9th and 10th sections of the 3d article.

Taking the word "term" as it stands in the 8th section of the schedule insulated and unaided by any other part of the constitution, it has no definite meaning attached to it; but as it had been used in the body of the constitution, the schedule refers us there for its meaning. The first place that it occurs is in the 12th section of the third article, where it is declared that "senators shall be chosen by the qualified electors for the term of three years." Why are they chosen for three years and not to serve for the same period? the reason is obvious, they might or might not serve for three years according as other provisions of the constitution would permit. The 2d section of the same article says "the members of the House of Representatives shall be chosen by the qualified electors and shall serve for the term of one year." Here is a marked distinction made in the same instrument between being chosen for a given period and serving for the same period; which shows clearly that the 12th section above referred to does not aid in fixing the time which the present senators shall serve. If we refer to the 13th section of the same article, it will appear that senators chosen for three years may only serve one year, or two years or three years as chance may direct. As nothing can be found in the constitution which gives to the present senators the right to serve for three years, and as the limitation of time expressed in the 8th section of the schedule and the provisions of the 9th and 10th sections of the 3d article are in full force, the house of Representatives are constrained to believe that it is their duty to apportion both branches of the General Assembly. The reasons why they cannot consent to apportion the House of Representatives alone are these. It is provided by the 9th section of the 3d article that the House of Representatives shall not consist of less than forty four, nor more than sixty members until the number of white inhabitants shall be one hundred thousand." By the present apportionment bill the whole number of Representatives do not amount to sixty, and it is well known the senate consist of twenty three, which is more than one third of the whole number. It would therefore be as great a violation of the constitution to make the apportionment of the House of Representatives without dividing the state into districts and fixing the number of senators as to refuse to do it altogether. The 30th section of the bill of rights expressly provides that all laws contrary to the provisions of the constitution shall be void. As one provision of the constitution is that the whole number of senators shall never be less than one fourth nor more than one third of the whole number of representatives, a law which would destroy that proportion by attempting an apportionment must therefore be void. It is also considered that if the schedule can

sustain the senatorial branch of the Legislature without an apportionment, it is equally competent to sustain the representative branch also.

On motion of Mr. Perry, ordered that the committee aforesaid be discharged from the further consideration of the aforesaid subject.

Ordered that the senate be acquainted therewith.

Mr. Moore of Madison, introduced a bill to be entitled an act supplementary to the act making appropriations for the year 1821, which was read the first time, and the rule being dispensed with, it was read the second time, forthwith and committed to a committee of the whole at the hour of three this evening.

Mr. Weedon obtained leave to introduce the following resolution:

Whereas an unfortunate difference of opinion exists between the majorities of the two branches of this General Assembly in regard to the duty of apportioning representatives and senators; and after full and repeated trials at the last and present session to reconcile the difference, in which the house of representatives have endeavoured as far as was in their power to apportion both branches; it is evident that the purpose cannot be effected. It therefore results from necessity, that the only alternative remaining is either to apportion the representative branch alone, or to leave the present imperfect apportionment to operate, wherein several populous counties will remain unrepresented in this branch. And believing that no constitutional provision will be violated in making this apportionment, which would not be violated by an entire neglect to apportion; while it would ensure to the people of this state a more just and equal exercise of their representative rights:

Wherefore, resolved that it has become expedient to pass a law to apportion the house of representatives according to the late census.

A bill from the senate entitled an act providing for the payment of costs in certain cases, was read the third time and passed as amended.

Ordered, That the senate be acquainted therewith.

A bill from the senate entitled an act, explanatory of the laws concerning the stay of executions and fees of certain officers therein named, was read the second time.

Mr. Armstrong of Mobile, moved that the same be indefinitely postponed, which was decided in the negative. Ayes, 16. Nays, 23.

The yeas and nays being called for.

Those who voted in the affirmative, are

Mr. Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Benson, Isaac Brown, Cleaveland, Creagh, Coats, Draughon, Dale, Davis, Murrell, Moore of Marion, Perry, Shackelford, Tagert.—16

Those who voted in the negative, are,

Mr. Speaker, Bigham, Bailey, John Brown, Chambers, Chapman, Clay, Cook, Coleman, Edmondson, Fitzpatrick of Autauga, Fitzpatrick of Montgomery, Holderness, Jackson, Leake, Moore of Madison, Murphy, M'Vay, Rather, Skinner, Vining, Walker, Weedon.—23

So said bill was not indefinitely postponed.

The house, then, on motion, resolved itself into a committee of the whole on said bill, and after sometime spent therein, the Speaker, resumed the chair, and Mr. Moore of Madison reported the same with amendments in which the house concurred.

Ordered, that the said bill be read a third time this evening.

Message from the senate by Mr. Chambers their secretary.

Mr. Speaker, the Senate have passed the bill which originated in your honorable body, authorising the collection of toll at the Cahawba Bridge to which they have made amendments, and ask your concurrence therein. And then he withdrew.

Message from the senate by Mr. Williams their secretary.

Mr. Speaker the senate recede from the amendments to the bill entitled an act to amend an act entitled an act to provide for assessing and collecting of taxes and for taking the census of this state, passed at the second session of the General Assembly on the 22nd day of December, 1820, and for other purposes when it was proposed, in striking out the words "chief justice," wherever they occur, and inserting "Judge," in striking out the word "December," and inserting "November," and in inserting the 22d and 23d sections.

They recede from the amendments to the resolution appointing persons to examine Tuskalooosa river, to wit: the resolution disagreed to by your honorable body.

They have passed the following bills to wit: an act imposing a tax on non residents and transient persons importing goods, wares or merchandize into the city of Mobile and town of Blakeley.

An act to amend an act passed at Huntsville December 16, 1819, entitled an act to establish a public road therein named.

An act to incorporate the town of Hazle Green in the county of Madison, and a resolution relating to the county of Montgomery.

Message from the acting Governor by Mr. Rogers.

Mr. Speaker, I am instructed by the acting Governor to inform you, that he has on this day approved and signed, a resolution to extend relief to William Terry for certain services rendered the State of Alabama as engineer, and an act to amend an act to alter and amend the laws regulating the admission and practice of counsellors and attorneys at law.

I am also instructed to inform you that his excellency the Governor has received official information that Nicholas Davis, Esq. who was elected on the 16th inst. Judge of the county court of Limestone county has declined accepting the appointment.

The house adjourned till 3 o'clock.

Evening Session.

The house took up the bill entitled an act explanatory of the laws concerning executions, and the fees of certain officers therein named, and on motion *Ordered*, that the same be read a third time on Monday.

The house took into consideration the amendments made by the senate to the bill to be entitled an act authorising the collection of toll at the Cahawba bridge, and agreed to the said amendments.

Ordered, That the senate be acquainted therewith.

On motion, the house took up the resolution offered this morning by Mr. Weedon concerning the disagreement of the two Houses on the apportionment, which was read.

Ordered, That the gentleman have leave to withdraw the same.

On motion of Mr. Morton the following resolution was adopted.

Resolved, that the senate be requested to meet this house in the hall of the house of representatives, this evening at 6 o'clock to elect a judge for the county of Limestone in the place of Nicholas Davis, who declines accepting said office.

Ordered, that the same be communicated to the senate.

On motion of Mr. Weeden, the house took up the resolution from the senate, relative to the adjournment of the General Assembly which was read a second time and amended; and the rule being dispensed with, it was read a third time and passed.

Message from the senate by Mr. Dick:

Mr. Speaker, the senate have discharged the committee of conference appointed by them to confer with the committee on the part of your honorable body, on the difference existing between both branches on the bill entitled an act to apportion the representatives among the several counties of this state according to the returns of the late census, from further considerations of the same.

They have passed a resolution extending the time of payment of a certain sum of money due this state by John M. Taylor, which originated in your honorable body, and have amended the same by annexing a proviso thereto, and by adding another resolution, in which they respectfully desire your concurrence.

The resolution extending the time of payment of a certain sum of money due this state by J. M. Taylor was returned by the senate with amendments, which were concurred in by the house.

The house took up the bill to be entitled an act to apportion the representatives among the several counties of this state, according to the returns of the late census.

Mr. Smoot moved, that the house recede from their amendment to the said bill by adding the 2nd and 3d sections thereto, which motion was lost.

The yeas and nays being called for,

Those who voted in the affirmative, are,

Messrs. Speaker, Armstrong of Conecuh, Bigham, Benson, John Brown, Creagh, Coats, Coleman, Draughon, Dale, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Jackson, Leake, Murphy, Murrell, M'Means, Perry, Skinner, Sargent, Smoot, Tagert, Weeden—23.

Those who voted in the negative, are

Messrs. Abercrombie, Armstrong of Mobile, Bailey, Isaac Brown, Col. John Brown, Chambers, Chapman, Cleveland, Clay, Cook, Davis, Edmundson, Hill, Holderness, M'Kinley, Moore of Madison, Morton, Moore of Marion, M'Way, Perkins, Rather, Shackelford, Vining, Walker—24.

The House resolved itself into a committee of the whole House on the bill to be entitled an act supplementary to an act, making appropriations for the year 1821, and after some time spent in the consideration thereof, the committee rose, and Mr. Walker, reported the said bill with amendments, in which the House concurred.

Mr. Morton moved an amendment allowing appropriations for constables attending on the superior and present circuit courts, which was carried. The rule being dispensed with, the said bill was ordered to be engrossed and read a third time at half past 7 o'clock this evening.

Message by Mr. Dick.

Mr. Speaker--- The senate concur in the amendment made to the resolution adjourning the present General Assembly, by striking out the words "Wednesday next," inserting in lieu thereof "Saturday the 16th inst."

They also concur in the resolution adopted by your honorable body for the purpose of proceeding to elect a judge for the county Court of Limestone in the place of Nicholas Davis, who declines accepting said office. They disagree to the amendments made to the bill entitled an act providing for the payment of costs in certain cases, to wit: by striking out the word "county" whenever it occurs except in the second section and inserting "State," and by striking out the 4th section. *Ordered*, that the senate be informed, that this House is ready to receive that body to go into the election of a Judge for the county Court of Limestone county. *Ordered*, that Messrs. Chapman and Benson have leave of absence from this House after to-day.

The House took up the amended bill from the senate, entitled an act providing for the payment of costs in certain cases, and proceeded to the consideration of the amendments made thereto by the senate. On motion of Mr. Perkins, the said bill was ordered to lie on the table.

The senate having assembled in the Hall of the House of Representatives, the two Houses proceeded to the election of a Judge for the county Court of Limestone; and Daniel Coleman being the only person in nomination, and all the members present voting for him, the Speaker declared him duly elected Judge of the county Court of Limestone county.

Mr. Chapman moved, that this House reconsider the vote given upon Mr. Smoot's motion to recede from the amendment made by this House, to the bill to be entitled an act to apportion representatives among the several counties of this state according to the returns of the late census, by adding the 2d and 3d section thereto.

The house then adjourned till to-morrow morning 8 o'clock.

SATURDAY, *June* 16, 1821.

The House resumed the consideration of the bill to be entitled an act to apportion the representatives among the several counties of this state. Mr. Chapman's motion to reconsider the vote, on Mr. Smoot's motion, to recede from the amendments made by this House to the said bill, by adding two sections to the same, to wit: the 2d and 3d, the second apportioning the senatorial branch of the Government, and the third apportioning the returning officers to the senatorial districts, being under consideration.

And the question being stated, will the house reconsider the said vote? it was decided in the affirmative. Yeas 25, Nays 22.

The yeas and nays being called for, those who voted in the affirmative are,

Mr. Speaker, Armstrong of Conecuh, Bigham, Benson, J. Brown, Chapman, Creagh, Cook, Coats, Coleman, Draughon, Dale, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Jackson, Leake, Murphy, Murrell, M'Mearns, Perry, Skinner, Smoot, Sargent, Tagert, Weedon.—25.

Those who voted in the negative are,

Mr. Armstrong of Mobile, Abercrombie, Bailey, Isaac Brown, Col. John Brown, Chambers, Cleveland, Clay, Davis, Edmundson, Hill, Holderness, M. Kinley, Moore of Madison, Morton, Moore of Marion, M'Vay, Perkins, Rather, Shackelford, Vining, Walker, 22.

So the house re-considered the said vote.

The question was then taken on receding from the amendments made to the said bill---and decided in the affirmative, yeas 24, nays 23.

The yeas and nays being called for, those who voted in the affirmative are Mr. Speaker, Armstrong of Conecuh, Bigham, Benson, John Brown, Chapman, Creagh, Coats, Coleman, Draughon, Dale, Fitzpatrick of Montgomery, Fitzpatrick of Autauga, Jackson, Leake, Murphy, Murrell, MacMeans, Perry, Skinner, Smoot, Sargent, Tagart and Weedon, 24.

Those who voted in the negative are,

Mr. Abercrombie, Armstrong of Mobile, Bailey, Isaac Brown, Col. John Brown, Chambers, Cleveland, Clay, Cook, Davis, Edmundson, Hill, Holderness, McKinley, Moore of Madison, Morton, Moore of Marion, M'Vay, Perkins, Rather, Shackelford, Vining, Walker, 23.

So the house receded from the amendments to the said bill.

Ordered, that the senate be acquainted therewith.

Message from the senate by Mr. Dick :

Mr. Speaker, the house have passed the following bills, to wit :

An act for the relief of John M. Flinn.

And an act to repeal part of an act therein named, and for other purposes. Both of which originated in your honourable body.

Message from the senate by Mr. Williams :

Mr. Speaker, the senate have passed the bill entitled "an act concerning persons residing on the University Lands, and who have not rented the same, and for other purposes. And have amended said bill by striking out the third and fourth sections thereof."

Ordered, that the house concur in said amendments.

Mr. Chapman from the committee on enrolled bills, reported that said committee had examined the following acts, and find them correctly enrolled, to wit :

Resolution appointing persons to examine Tuskaloosa and Butta-hacher rivers. An act authorizing the collection of toll at the Cahawba bridge. Resolution fixing the time of adjourning the present General Assembly. An act to alter and amend the militia laws of this state. An act to amend an act entitled an act for assessing and collecting of taxes, and for taking the census of this state, passed at the second session of the General Assembly on the 22d December, 1820, and for other purposes. Resolution extending the time of payment of a certain sum of money due this state by John M. Taylor. An act to fix the permanent seat of justice in the county of St. Clair, and for other purposes. An act to incorporate the most worshipful grand lodge of ancient Free Masons of Alabama, and its masonic jurisdiction. An act concerning the Cahawba bridge. Resolution relating to the county of Montgomery. An act to incorporate the town of Hazle Green in the county of Madison. An act to amend an act passed at Huntsville December 16th, 1819, entitled an act to establish a public road therein named. An act imposing a tax on non-resident and transient

persons, importing goods, wares, and merchandize, in the city of Mobile and town of Blakeley. Memorial to the Congress of the United States. An act for the relief of John M. Flian. An act to repeal part of an act therein named, and for other purposes.

The house took into consideration a bill to be entitled an act supplementary to an act making appropriations for the year 1821, and after several blanks therein being filled, Mr. Rather moved that the blank in that part of the bill allowing compensation to the Public Printer, for extra services, be filled with "five hundred," which was lost.

The ayes and nays being called for, those who voted in the affirmative, are Messrs. Armstrong of Mobile, Armstrong of Conecuh, Benson, Isaac Brown, John Brown, Col. John Brown, Coleman, Draughon, Dale, Fitzpatrick of Autauga, Leake, Murrell, Perry, Rather, Shackelford, Smoot, Tagert—17.

Those who voted in the negative, are Mr. Speaker, Bigham, Clay, Creagh, Davis, Edmondson, Hill, Holderness, Moore of Madison, Morton, Moore of Marion, M'Vay, Perkins, Skinner, Vining, Walker, Weedon—17.

Mr. Armstrong, of Mobile, moved to fill said blank with "four hundred and fifty," which was lost.

The ayes and nays being called for, those who voted in the affirmative are Messrs. Abercrombie, Armstrong of Mobile, Armstrong of Conecuh, Benson, Isaac Brown, Coleman, Draughon, Dale, Davis, Fitzpatrick of Autauga, Murrell, Moore of Marion, Perry, Rather, Shackelford, Smoot, Tagert—17.

Those who voted in the negative, are, Mr. Speaker, Bigham, Chapman, Clay, Creagh, Cook, Edmondson, Hill, Holderness, Leake, Moore of Madison, Morton, M'Vay, Perkins, Skinner, Vining, Walker, Weedon—18.

Mr. Chapman from the committee on enrolled bills, reported, that said committee had examined the act to apportion representatives among the several counties of this state, according to the returns of the late census, and find the same correctly enrolled.

The house then adjourned till 2 o'clock.

Evening Session.

Mr. Perkins offered a resolution concerning the printing of the journals and laws of the present session of the General Assembly, which was adopted, and was on motion of Mr. John Brown, amended and ordered, that the same be sent to the senate for their concurrence.

The blank in the bill entitled an act supplementary to an act making appropriations for the year 1821, concerning the appropriation to the public printer being still under consideration, Mr. M'Means moved to fill the said blank with "three hundred and ninety nine," which was decided in the affirmative.

Mr. Morton offered an amendment by way of rider, in the following words: that in all criminal prosecutions wherein the defendant shall not be able to pay costs, or the court shall not think proper to order the prosecutor to pay the same, that then and in that case the clerk of the court wherein the matter may have been pending, shall grant a certificate of attendance for the witnesses of the state in manner as tickets are granted to jurors, and such tickets may be received by the collectors in payment of the county taxes; or shall be paid out of any monies in the State Treasury not otherwise appropriated, which was read a first time.

And on motion that this amendment be read a second time, it was decided in the negative. The yeas and nays being called for.

Those who voted in the affirmative, are
Messrs. Davis, Holderness, Morton, and Shackleford—4.

Those who voted in the negative, are
Messrs. Speaker, Armstrong of Conecuh, Benson, Bailey, Isaac Brown, Jno. Brown, Col. John Brown, Creagh, Draughton, Dale, Fitzpatrick of Autauga, Fitzpatrick of Montgomery, Jackson, Moore of Madison, Murphy, M'Means, M'Vay, Perry, Rather, Smoot, Tagert, Vining, Walker, Weedon—24.

The bill was then passed and sent to the senate.

On motion of Mr. Walker, *Ordered*, that a committee be appointed on the part of this House to act with such committee as may be appointed on the part of the senate, to wait on his excellency the acting Governor, and inform him that the two houses of the General Assembly are about to adjourn, if he has no further communications to make to them, and have appointed Messrs. Weedon, Perry, and Shackleford, of the committee. *Ordered*, that Messrs. Fitzpatrick of Autauga, Fitzpatrick of Montgomery, Jackson, and Armstrong of Conecuh, have leave of absence for the remainder of the session.

Message from the senate by Mr. Williams, their Secretary.

Mr. Speaker, The senate have passed the joint resolution concerning the printing of the Journals and Laws of the present General Assembly.

They have also passed the bill which originated in your honorable body, entitled an act supplementary to the act making appropriations for the year, 1821, to which they have made amendments, and ask your concurrence therein.

The House took into consideration the amendments made by the senate to the last mentioned bill, and concurred in the same. *Ordered*, that the senate be informed thereof.

Message from the senate by Mr. Dick.

Mr. Speaker---The senate concur in the communication appointing a joint committee to wait on his excellency the acting Governor, and have appointed a committee on their part.

Mr. Perry from the joint committee to inform his excellency the acting Governor that the two houses of the General Assembly are about to adjourn, if he has no further communication to make to them, reported that the committee had waited on the acting Governor, and was informed by him, that he had further communications to make, which he would do on Monday next.

Mr. Weedon moved, that the house reconsider the vote allowing Messrs. Fitzpatrick of Autauga, Fitzpatrick of Montgomery, Jackson, and Armstrong of Conecuh, leave of absence for the remainder of the session.

And the House adjourned till Monday 8 o'clock.

MONDAY, June 18, 1821.

Mr. Chapman from the committee on enrolled bills, reported, that said committee have examined the following bills and find them correctly enrolled, to wit: An act supplementary to an act making appropriations for the year one thousand eight hundred and twenty one, and for other purposes.

Resolution concerning the printing of the Journals and Laws of the present General Assembly and for other purposes.

An act concerning persons residing on the University lands, and who have not rented the same, and for other purposes.

Mr. Chapman obtained leave to spread on the Journals of this house, the reasons of his various votes on the bill to be entitled an act to apportion representatives among the several counties of this state according to the returns of the late census, which reasons are as follows :

I Samuel Chapman, a representative from Madison county, deeming it a duty I owe to myself, my country and posterity to state the reasons which influenced my conduct upon the subject of apportionment, beg leave to make the following statement. On the 4th inst. (being the day required by the proclamation of the acting Governor for the legislature to convene) a communication was received from his Excellency, stating the necessity of apportioning the senate and house of representatives in obedience to the requisitions of the 9th and 10th sections of the 3d article of the constitution. Immediately upon the receipt of which communication, a committee was appointed for the purpose of taking the subject into consideration; which committee shortly afterwards, reported a bill having for its object, the apportionment of the representatives and senators of the state of Alabama; which bill passed the house of Representatives, and was sent to the senate for their concurrence. Shortly afterwards, a bill was received from the senate, which apportioned the House of Representatives, leaving the senate unapportioned: which bill was laid upon the table, until the fate of the bill which originated in the house of representatives could be ascertained. The senate upon taking up the bill which was sent from the house, indefinitely postponed the same, and informed the house thereof. It then became necessary for the house of representatives to act upon the bill which had been received from the senate; and which had been ordered to lie on the table: when it was taken up, an amendment was offered, having for its object the apportionment of the senate, which amendment was adopted; and the bill thus amended, was sent to the senate, for their concurrence. They disagreed to the amendment, and sent it back. The house insisted upon their amendment, and the senate adhered to their disagreement.—A committee of conference was then appointed, which being unable to come to any understanding upon the subject, was discharged by their respective houses.

At this state of the proceeding, a motion was made in the house of representatives to recede from their disagreement, which vote stood thus, 23 for receding and 24 against it. I voted against receding. The question was at an end, unless the vote upon receding was reconsidered. It was my opinion, if the subject thus ended, and the legislature should rise without making any apportionment whatever, the government would be dissolved, and society thrown into a state of anarchy and confusion, much to be deplored by every patriot.

What consequences would result from such a state of things none could tell, but in my estimation worse, than any I had heard anticipated. Influenced by these alarming considerations, I determined to move a re-consideration of the vote to recede, and to agree to apportion the house of representatives alone, as it was reduced to a moral certainty that, that was all we could do. The vote was re-considered, and the house agreed to recede, for which I voted, and I submit to the world the following reasons for my vote.

I have always been of opinion, that both branches of the General Assembly, ought at this time to be apportioned; I am still inclined to that opinion; and in support of it, I have done every thing within the reach of my ability: every vote that I gave has manifested my anxiety for the apportionment of both houses; but believing it to be impossible to apportion both, I have consented to apportion one. The 9th section of the 3d article of the constitution makes it the duty of the General Assembly to apportion the house of representatives at their first meeting after every enumeration---an enumeration has been made since the period has arrived when the said 9th section shall be carried into operation by apportioning the house of representatives. The tenth section of the same article, declares, that after every such enumeration, the General Assembly shall lay off the state into senatorial districts: and each district shall be entitled to one senator, and no more. It also provides, that the senate shall never be more than one third, nor less than one fourth the whole number of representatives. Now although it may be necessary to carry the tenth section into operation, surely an inability to do it does not argue any thing against carrying the ninth section into effect. It is agreed on all hands, that the apportionment of the house of representatives should be made, but it is contended by some, that it must necessarily be accompanied by an apportionment of the senate. Upon the subject of the apportionment of the senate at this time, there is great diversity of opinion amongst all ranks and classes of men from the highest to the lowest. That being the case, I may well say, it is a doubtful question.

I hold it to be a clear proposition, that if the constitution does intend that the present senators shall serve one term of three years, and therefore, that the apportionment of that branch shall not take place, until the regular session of 1821. It is not required by the constitution that the proportion between the two houses should commence at this time; but it is to commence when the apportionment of the senate is to take place; because the constitution declares the existence of a senate twenty two in number; and also declares, that the house of representatives shall be limited to sixty; until the happening of a certain event, which has not yet happened. Now until the period arrives when the number of senators can be reduced, it is impossible for the proportion required in the tenth section to commence. But it is said, the period has now arrived, when the number must be reduced. Although that opinion may be correct, yet there is certainly a reason

able ground to doubt its correctness. I did not deem it a correct course to leave all undone, because I could not effect all I desired---more especially when in my opinion there can be no doubt as to the propriety, *nay necessity*, of apportioning the house of representatives; and there is, to say the least of it, ground for reasonable doubt, as to the propriety of apportioning the senate; and about which there is great contrariety of sentiment. Furthermore, I am of opinion, that by apportioning the representative branch, the government may be safe; but when all is left undone, I verily fear a dissolution of the government will be the inevitable consequence. For these reasons, I voted for receding from the amendment of the house, and for apportioning the house of representatives---for which vote, I feel fully justified by my own conscience, and I hope I shall be in the eyes of my country, and at the bar of my God.

SAMUEL CHAPMAN.

An act explanatory of the laws concerning the stay of executions, and the fees of certain officers therein named---read third time, and on the question, shall the bill pass? it was decided in the negative.

The ayes and nays being called for those who voted in the affirmative, are Messrs. Bailey, Chapman, Clay, Davis, Edmondson, Holderness, Leake, M. Kinley, Moore of Madison, M. means, M. Vay, Rather, Skinner, Vining, Walker and Weedon---16.

Those who voted in the negative, are. Mr. Speaker, Armstrong of Mobile, Armstrong of Conecuh, Benson, Isaac Brown, John Brown, Col. Jno. Brown, Creagh, Cook, Coats, Coleman, Draughon, Dale, Jackson, Murphy, Moore of Marion, Perkins, Perry, Shackelford, Smoot, Tagert---21.

And then the house adjourned till 2 o'clock.

House met pursuant to adjournment.

The following communication was received from the senate by Mr. Williams their Secretary :

Mr. Speaker---His Excellency the acting Governor having this day returned to the senate, where it originated, the bill entitled "an act to apportion the representatives among the several counties, of this state according to the returns of the late census" together with objections thereto, the senate, after having caused said objections to be entered upon their Journal at large, proceeded to reconsider said bill, and a majority of the whole number elected to that body, agreed to pass the same. The bill with the objections of His Excellency are sent for the reconsideration of of your honorable body.

The following are the objections of His Excellency which accompanied the foregoing message.

To the Senate of the State of Alabama.

Having bestowed on the bill entitled "an act to apportion the Representatives among the several counties of this state according to the returns of the late census" that deliberate consideration which is dictated as well by the respect which I entertain for both branches of the General Assembly, as by the importance of the subject itself, I feel myself constrained by a deep and solemn conviction of its unconstitutionality to return it to your honorable body in which it originated, together with my reasons for so doing.

By the 1st section of the 3d article of the constitution it is declared,

"that the legislative power of this state shall be vested in two distinct branches, the one to be styled the Senate, the other the House of Representatives and both together, the General Assembly of the State of Alabama."

In this collective body composed of these two distinct branches is vested the "legislative power" which is to be exercised in such manner as is prescribed in the constitution. But in order that this power shall be constitutionally exercised, it is necessary, that the body which exercises it be constituted in conformity with certain provisions contained in the 9th and 10th sections of the same article.

In those two sections is pointed out in the most plain, positive and explicit terms the duty of the General Assembly in providing at stated periods for the continuance of the body. The principles upon which the respective branches shall be numbered and proportioned; and the rules by which that number and proportion shall be divided, among the electors of the state; and it is conceived that whenever any of these principles and rules are violated either by positive enactment, or by the omission of such provisions as necessarily creates a violation, it operates to vitiate the whole body. In the General Assembly "is vested" the legislative power and as neither branch can perform any duty, or exercise any authority, incident to that power without the concurrence of the other, so whenever either branch is constituted differently from the principles laid down for its creation it follows that all its acts are void.

The periods at which this body is to be reorganized are on the returns of each enumeration. whenever that is done, an apportionment becomes imperative and the duty to apportion both is as imperative, as is the duty of apportioning either. The number of one branch is to be first fixed when that of the other necessarily follows, and so intimately connected, are they in every thing relating to their organization and power of acting that to alter the number or distribution of one branch without at the same time apportioning and dividing the other will defeat and destroy the constitutionality of both. It is true the duty to apportion and the rules by which the apportionment is to be made are defined in two separate sections, both however have for their object the formation of one body and I cannot conceive that this body can be created but by the same act and at the same time and that it is equally as unconstitutional to perform but half the duty as it is to neglect it altogether.

By the 8th section of the schedule a General Assembly was created and apportioned which should continue "until the first enumeration," should be taken, when that act should be done a new apportionment became necessary; the principles of that apportionment are to be found only in the 9th and 10th sections of the 3d article. And if there be a contradiction between the 8th section of the schedule and those sections, I conceive, the 8th section of the schedule must yield; the duty to apportion under the 9th and 10th sections being imperative and those sections containing provisions of much the highest importance and such as cannot be acted on separately.

The only difficulty which has arisen to prevent the apportionment of both branches at this time is the provision of the 8th section of the schedule which declares that the Senators chosen under the provisions of that section "shall serve for one term," the period indicated by this term I cannot understand to mean any other than the time intervening

between the election of the Senators and the return of the first census. The duty to apportion then commences under the 9th and 10th sections of the third article and applies imperatively in my view from the reasons above stated, to both branches of the General Assembly.

The bill under consideration contains a provision for the apportionment of the Representatives only and does not apportion the Senators. It thereby violates the provision in relation to the relative proportion of the two branches, it also violates the provision in relation to the constitution of the Senate which requires the State to be divided into senatorial districts, and thereby prevents an equality of representation. It operates to continue by its omission to apportion the Senate in conformity with the 10th section of the 3d article, a Senate created by the 8th section of the schedule on principles different from the permanent provisions of the constitution, & which was limited in its duration of service to the return of the first enumeration which has been taken, and under which the bill itself professes to be framed.

Independent of the reasons which I have offered on the ground that this bill is unconstitutional, I have another which however would not be a sufficient inducement for me to return it to you. It makes the whole number of Representatives fifty five; a number greatly beyond the *minimum* required by the constitution and contrary as I believe to the policy which should govern in fixing the number. It creates an expense to, and imposes a burthen upon the people which is not required for the purposes of legislation in the present state of our population and which at all times should be avoided.

In the discharge of this painful duty of stating the reasons which compel me to refuse my assent to a bill which has undergone much deliberation and which has received the assent of both branches of the General Assembly—I console myself with the reflection, that should they be deemed insufficient they can be overruled in a constitutional manner by that body which is the immediate representative of the people, and on a subject too, which I conceive it is peculiarly the province of the people to decide.

June 18, 1281,

THOMAS BIBB

The foregoing message, and accompanying objections being entered in the journals and read, the House proceeded to reconsider the said bill. The question was then submitted on the passage of the said bill and decided in the negative.

Those who voted in the affirmative, are

Mr. Speaker, Armstrong of Conecuh, Bigham, Benson, John Brown, Chapman, Creagh, Cook, Coats, Coleman, Draughon Dale, Jackson, Leake, Murphy, Murrell, M'Means, Perry, Skinner, Sargent, Smoot Tagert Weedon—23.

Those who voted in the negative are,

Messrs. Armstrong of Mobile, Bailey, Isaac Brown, Col. John Brown, Chambers, Clay, Davis, Edmondson, Holderness, M'Kinley, Moore of Madison, Morton, Moore of Marion, M'Vay, Perkins, Rather, Shackelford, Vining, Walker—19.

So there not being a majority of the whole number elected, as required by the constitution, the said bill was not passed.

Message from the senate by Mr. Williams their secretary.

Mr. Speaker—The senate have passed a resolution establishing certain election precincts in the county of Henry, in which they ask your concurrence.

The House took up the aforesaid resolution, which was read the first time, and the rule being dispensed with, was read a second and third time and passed. *Ordered*, that the senate be acquainted therewith.

Message from the acting Governor by Mr. Rogers, the Secretary of State.

Mr. Speaker---I am instructed by the acting Governor to inform you, that he did on the 16th inst. approve and sign, a resolution extending the time of payment of a certain sum of money due this state by John M. Taylor: an act authorizing the collection of toll at the Cahawba bridge: an act concerning the Cahawba bridge: resolution relating to the county of Montgomery: an act to repeal part of an act therein named, and for other purposes: an act appointing persons to examine Tuskaloosa and Buttahatchee rivers: an act for the relief of John M. Flinn: an act to incorporate the town of Hazlegreen in the county of Madison: an act imposing a tax on non resident and transient persons making sale of goods and merchandize in this state: an act to incorporate the most worshipful Grand Lodge of Ancient Freemasons of Alabama and its Masonic jurisdiction.

An act to alter and amend the militia laws of this State, and an act to amend an act passed at Huntsville, December 16, 1819, entitled an act to establish a public road therein named.

Mr. Weedon moved the adoption of the following resolution, which was carried. *Resolved*, that a committee be appointed to act with such committee as may be appointed by the senate, to inform his excellency the acting Governor, that the General Assembly have finished all the business before them, and if he has no further communications to make, will be ready to adjourn this evening at five o'clock.

A communication was received from the senate by Mr. Chambers, informing the House that the senate had concurred in the foregoing resolution and have appointed a committee on their part.

Message from the acting Governor by Mr. Rogers, the secretary of state. *Mr. Speaker*, I am instructed by the acting Governor to inform you, that he did on this day approve and sign the following acts to wit:—An act concerning persons residing on the university lands and who have not rented the same, and for other purposes. Resolution concerning the printing of the Journals and laws of the present General Assembly. Resolution establishing certain additional election precincts in the county of Henry, and an act supplementary to an act making appropriations for the year 1821, and for other purposes.---Mr. Weedon from the joint committee appointed to wait on his Excellency the acting Governor, reported, that the committee had performed the duty assigned them, and his Excellency informed the committee that he had no further communication to make.

On motion of Mr. Weedon, *Ordered*, that the senate be informed, that this house will be ready to adjourn at the hour of five o'clock.

Message from the senate by Mr. Dick. The senate will be ready to adjourn at 5 o'clock this evening. On motion of Mr. M'Vay the fol-

lowing resolution being presented to the clerk, was unanimously adopted. *Resolved*, That the thanks of this house be presented to the Honorable George W. Owen for the ability, dignity, and impartiality with which he has performed, the arduous duties of Speaker of the House of Representatives during the present session of the General Assembly.

Whereupon, the Speaker rose and addressed, the House as follows :

Gentlemen—Permit me to return you my thanks for this repetition of your approbation of my conduct as the presiding officer of this body. The highest reward I can ever wish to enjoy as a public agent, is the approbation of those whom I serve. We have now closed, the labors of the present session, and I should not do justice to my own feelings, were we now to part without an expression on my part of the high personal regard which I have for each of you individually. In the discharge of the various duties of the chair, I have ever found you willing to contribute your aid in promoting the important objects of our deliberations. I have never enjoyed a sincerer pleasure than that which I have experienced in observing the constant attention of this body to the weighty and important business upon which it has been assembled. With this ardent devotion of the public agents to the interests of the people, their liberty can never be endangered, and their prosperity and happiness must ever be promoted. As we are about to return to our respective homes, let me assure you, Gentlemen, that you carry with you my warmest wishes for your welfare and happiness, and that of those who may be most dear to you.

And then the House adjourned *sine die*.

G. W. OWEN,

Speaker of the House of Representatives.

Attest, J. J. PLEASANTS, Clerk of the House of Representatives.

ERRATA. Owing to the hurried manner in which the Journals were necessarily printed, the following mistakes escaped the publishers—which, readers will be good enough to correct with their pen. In the 33d page, and 2d line from the bottom, for Mr. ‘President’ read Mr. Speaker. And in a few copies of the Journals, page 56, 3d line from the top, an error of some import was permitted to pass. Read Mr. M’Vay, instead of Mr. M’Kinley.